

**IN THE TENTH JUDICIAL CIRCUIT COURT  
IN AND FOR HARDEE, HIGHLANDS AND  
POLK COUNTY, FLORIDA**

**County Case No.: TT00-006607-XX**

**Appeal No.: FF-01**

**GARY RENEW,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

---

**OPINION OF THE COURT**

This is an appeal of a DUI conviction in the county court of Polk County, Judge Mark Carpanini presiding. This court has jurisdiction. Fla. R. App. P. 9.030(a). The ruling of the county court is affirmed.

Appellant was charged with one count of driving under the influence, in violation of §316.193, Florida Statutes (2001). He was found guilty by a jury and sentenced to one year in county jail. In addition, the trial court permanently revoked Appellant's driver's license and imposed fines and court costs. A timely notice of appeal was filed.

Appellant argues on appeal that the trial court erred in failing to grant the motion for judgement of acquittal based on the State's failure to establish corpus delicti, specifically that Appellant drove the vehicle. The directing of verdicts is within the sound discretion of the trial judge. Shea v. State, 167 So.2d 796 (Fla. 3d DCA 1965). If there is substantial evidence to support the verdict, the verdict should not be disturbed on appeal. Substantial evidence has been defined as "such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred." Cohen v. State, 99 So.2d 563, 564 (Fla. 1957). If there is not substantial error showing an abuse of discretion, the ruling of the trial court must be affirmed. Shea. Moreover, by moving for a judgment of acquittal, the defendant accepts as proven all facts in evidence and every conclusion favorable to the state. A motion for directed verdict of acquittal should not be granted unless it is apparent that no legally sufficient evidence has been submitted upon which a jury could convict. Brown v. State, 294 So.2d 128 (Fla. 3d DCA 1974). The evidence must be reviewed in a light most favorable to the state. Cochran v. State, 547 So.2d 928 (Fla. 1989); Lynch v. State, 293 So.2d 44, 45 (Fla. 1974). The standard of review the appellate court must use in deciding whether the trial court erred in deciding a motion for judgment of acquittal based on the legal sufficiency of the evidence is de novo. Tibbs v. State, 397 So.2d 1120 (Fla. 1981).

Before a confession is admitted into evidence, corpus delicti must be established independently of the confession. Bassett v. State, 449 So.2d 803 (Fla. 1984). The state has the burden of proving, by substantial evidence, that a crime was committed, as a prerequisite to offering in evidence an admission against interest. Id. Corpus delicti can be demonstrated by direct or circumstantial evidence and the only question is whether the evidence of the corpus delicti is prima facie sufficient to authorize the admission of the confession. State v. Allen, 335 So.2d 823 (Fla. 1976).

Testimony at trial established that the a van was traveling erratically, that the driver turned into a gas station, that a person fitting Appellant's description exited the van from the driver's side, and that there were no other people present in the van or around it. While the evidence is not overwhelming, there was sufficient evidence under the totality of the circumstances to infer that the Appellant drove the van. Therefore, the trial judge correctly concluded that the elements of driving while under the influence were independently established.

Appellant also argues on appeal that the trial court should have required the State to prove his three prior DUI convictions and enter certified copies of convictions instead of just his driving record. The Court agrees with Appellee that the State was not required to enter certified convictions of the Appellant's prior DUI convictions. Haddix v. State, 668 So.2d 1064 (Fla. 4<sup>th</sup> DCA 1996).

Accordingly, it is ORDERED and ADJUDGED that the judgment and sentence of the county court is AFFIRMED.

DONE and ORDERED March 3, 2005.

---

**RONALD HERRING**, Chief Judge