

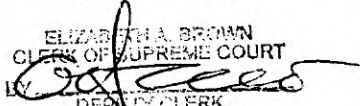
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LANCE KALEIOKALANI KAANOI, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85307-COA

FILED

SEP 15 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Lance Kaleiokalani Kaanoi, Jr., appeals from a judgment of conviction, entered pursuant to a jury verdict, of leaving the scene of an accident resulting in injury or death and reckless driving resulting in substantial bodily harm or death. Eighth Judicial District Court, Clark County; Michael A. Cherry, Senior Judge.

Kaanoi argues that insufficient evidence supports his convictions. When reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and determine whether “*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); accord *Mitchell v. State*, 124 Nev. 807, 816, 192 P.3d 721, 727 (2008). “[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness.” *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975). And circumstantial evidence is enough to support a conviction. *Washington v. State*, 132 Nev. 655, 661, 376 P.3d 802, 807 (2016).

First, Kaanoi argues that insufficient evidence supports his conviction for leaving the scene of an accident. NRS 484E.010(1) requires the driver of any vehicle involved in a crash resulting in bodily injury or death to stop at the crash scene and “remain at the scene of the crash until the driver has fulfilled the requirements of NRS 484E.030.” NRS 484E.030(1) requires the driver of any vehicle involved in such a crash to, among other things, provide specific information to a person injured in the crash, to someone who was in or was attending to property damaged in the crash, and/or to police officers. The statute also requires the driver to render reasonable assistance to any person injured in the crash.¹

Kaanoi first argues the State presented no evidence at trial showing that he failed to provide the necessary information.² The evidence produced at trial revealed the following. Kaanoi was driving a truck that accelerated prior to entering an intersection on a red light. Kaanoi crashed into the victim’s vehicle, causing both vehicles to flip over. The victim was severely injured and later died. After the crash, Kaanoi’s vehicle automatically called 9-1-1, but the call was terminated without Kaanoi providing the required information to the dispatcher or informing the

¹NRS 484E.030 was amended after the date of the offense, but the amendment does not alter the requirements.

²Kaanoi also argues that the injuries sustained by the parties relieved him of the duty to provide the requisite information. We decline to consider this argument because it was raised for the first time in Kaanoi’s reply brief. *See* NRAP 28(c); *Browning v. State*, 120 Nev. 347, 368 n.53, 91 P.3d 39, 54 n.53 (2004).

dispatcher that someone other than Kaanoi was involved in the crash. Kaanoi did not approach the victim. Instead, witnesses observed him retrieve a backpack from his truck and leave the scene on foot before the police arrived, which was approximately three minutes after the crash. Kaanoi did not manually call authorities to report the crash and provide the required information, yet he was able to make multiple calls to others from his cell phone between the time of the crash and being contacted by police. Officers were notified that Kaanoi left the scene, and they later found him in a back parking lot of a nearby hospital. Kaanoi was walking away from the hospital when the officers saw him. Based on the evidence presented, any rational juror could have found beyond a reasonable doubt that Kaanoi failed to provide the information required by NRS 484E.030.

Kaanoi also contends the State presented no evidence at trial that he failed to render reasonable assistance to the victim. Kaanoi argues that his injuries prevented him from rendering assistance beyond “the making of arrangements for the carrying” of the victim to get medical treatment, *see* NRS 484E.030(1)(c), which Kaanoi argues was satisfied by the automatic 9-1-1 call placed by his truck that provided the GPS location of the crash. In light of the trial evidence described above, we conclude any rational juror could have found beyond a reasonable doubt that Kaanoi failed to provide reasonable assistance to the victim. Therefore, we conclude sufficient evidence supports Kaanoi’s conviction for leaving the scene of an accident, and he is not entitled to relief based on this claim.

Second, Kaanoi argues that insufficient evidence supports his convictions because the State failed to prove he was the proximate cause of

the victim's injuries or death. Kaanoi contends there was no evidence connecting the crash to the victim's injuries or death. "[A] criminal defendant can only be exculpated where, due to a superseding cause, he was in no way the 'proximate cause' of the result." *Etcheverry v. State*, 107 Nev. 782, 785, 821 P.2d 350, 351 (1991). "[A]n intervening cause must be a 'superseding cause,' or the 'sole cause'" of the injury "in order to completely excuse the prior act." *Williams v. State*, 118 Nev. 536, 550, 50 P.3d 1116, 1125 (2002). Kaanoi admitted to officers that he crashed his vehicle into the victim's vehicle, witnesses testified the victim was injured following the crash, and the medical examiner testified that the victim died from blunt force injuries due to an accident. Based on the evidence presented, any rational juror could have found beyond a reasonable doubt that Kaanoi was the proximate cause of the victim's injuries and, ultimately, her death. Therefore, we conclude Kaanoi is not entitled to relief based on this claim.

Third, Kaanoi argues the district court erred by denying his motion to present a necessity defense and by failing to instruct the jury on necessity. Because Kaanoi fails to include in his appendix the hearing transcript wherein his requests were denied, we presume the events that transpired at that hearing support the district court's decision. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007); *see also* NRAP 30(b)(3) (requiring an appellant to include in the appendix "any . . . portions of the record essential to determination of issues raised in [the] appeal"). In addition, we need not reach the merits of Kaanoi's argument regarding the lack of a necessity instruction because he fails to include in his appendix a copy of his proposed instruction. *See* NRAP

30(b)(2)(D) (“In addition to the transcripts required by Rule 30(b)(1), the joint appendix shall contain . . . [a]ll jury instructions given to which exceptions were taken, and excluded when offered”); *Turpen v. State*, 94 Nev. 576, 577-78, 583 P.2d 1083, 1084 (1978) (concluding that the appellant’s failure to include a proposed instruction in the record on appeal precludes appellate review). In light of these circumstances, we conclude that Kaanoi is not entitled to relief based on his claim that the district court improperly prohibited him from presenting a necessity defense and instructing the jury on necessity.

Finally, Kaanoi argues that the cumulative effect of the errors violated his constitutional right to a fair trial. For the reasons previously discussed, Kaanoi fails to demonstrate any errors to cumulate. Therefore, we conclude Kaanoi is not entitled to relief. *See Burnside v. State*, 131 Nev. 371, 407, 352 P.3d 627, 651 (2015) (noting cumulative error claims require “multiple errors to cumulate”). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Hon. Michael A. Cherry, Senior Judge
Goodman Law Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk