

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

19-P-737

COMMONWEALTH

vs.

COREY P. HARRIS.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

After a bench trial, a District Court judge found the defendant guilty of operating a motor vehicle under the influence of intoxicating liquor. On appeal, the defendant challenges the sufficiency of the evidence that he was driving while impaired. We affirm.

In reviewing a claim of insufficiency, we view the evidence adduced at trial in the light most favorable to the Commonwealth, drawing all reasonable inferences therefrom, to determine whether the evidence was sufficient to persuade any rational fact finder to find the essential elements of the crimes charged beyond a reasonable doubt. Commonwealth v. Latimore, 378 Mass. 671, 676-677 (1979).

The trial evidence included the following. The arresting officer observed the defendant's car drifting between lanes

before he pulled him over; an odor of alcohol emanated from the defendant's car and from him personally, which persisted through the booking process; the defendant's eyes were bloodshot and glassy; the defendant admitted to drinking an energy drink that contained alcohol; the defendant gave delayed responses to the arresting officer's questions; the defendant performed very poorly in two field sobriety tests during which he was unsteady on his feet; based on his observation, the arresting officer formed the opinion that the defendant was drunk; and after being given his Miranda warnings, the defendant "mentioned something about seeking help with a detox program."

This evidence provided a sufficient basis for the judge to find that the defendant was operating his vehicle while impaired from consuming alcohol. See Commonwealth v. Gallagher, 91 Mass. App. Ct. 385, 392-393 (2017).

Judgment affirmed.

By the Court (Milkey, Shin & Englander, JJ.¹),



Clerk

Entered: May 8, 2020.

¹ The panelists are listed in order of seniority.