

01-24-00122CR
In the First Court of Appeals
For the
State of Texas

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DEBORAH M. YOUNG
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No. 1727982
In the 176th District Court
Of Harris County, Texas

WILLIAM DELAWRENCE LEWIS
Petitioner
V.
THE STATE OF TEXAS
Respondant

APPELLANT’S BRIEF

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ORAL ARGUMENT IS REQUESTED

STATEMENT REGARDING ORAL ARGUMENT

Pursuant to TEX. R. APP. P. 38.1(e), the Appellant requests oral argument as it would assist him in presenting his legal arguments.

IDENTIFICATION OF THE PARTIES

Pursuant to TEX. R. APP. P. 38.1(a), a complete list of the names of all interested parties is provided below.

Trial Judge:	Hon. Nikita V. Harmon and Susan Brown Judge, 176 th District Court
Appellant:	William Delawrence Lewis
Appellate Counsel for Appellant:	Judith Shields 10655 Six Pines, Suite 230 The Woodlands, Texas 77380
Trial Counsel for Appellant:	Maverick Ray and Cindy Bridges 4330 Heights Blvd Houston, Texas 77007
Appellate Counsel for the State:	Jessica Caird Assistant District Attorney Harris County District Attorney's Office 1201 Franklin, Suite 600 Houston, Texas 77002
Trial Counsel for the State:	Mateo Gonzalez and Michael Hanover Assistant District Attorneys Harris County District Attorney's Office 1201 Franklin, Suite 700 Houston, Texas 77002

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TO THE HONORABLE FIRST COURT OF APPEALS:

STATEMENT OF THE CASE

On June 19, 2021, Appellant was charged by complaint for Failure to Stop and Render Aid. (CR 10).¹ On July 12, 2012, a grand jury indicted Appellant. (CR 32) On April 27, 2023, the State moved to consolidate the trial on this case with cause number 1727983, Racing. (CR 102) On February 8, 2024, a jury found Appellant guilty as charged in the indictment of Failure to Stop and Render Aid and acquitted him on the Racing charge. (CR 377, 420, 10RR 3), and an agreement was reached for punishment at confinement as ten years in the Texas Department of Criminal Justice—Institutional Division, probated for a term of seven years, and a \$1000 fine. (CR 377-378, 420, 115RR 5). The trial court certified his right to appeal on February 8, 2024. (CR 387). On February 9, 2024, Appellant filed notice of appeal. (CR 390).



ISSUE PRESENTED

Sole Issue: Is the evidence sufficient to support a jury’s verdict?

¹ The clerk’s record on appeal is designated by “CR” followed by page number. The reporter’s record on appeal is designated by volume number, followed by “RR,” followed by page number.

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STATEMENT OF FACTS

State's case-in-chief

Ryan Laird

Ryan Laird is a captain with the Houston Fire Department for 12 years. (3RR 17) He was working as an engineer operator on June 19, 2021. (3RR 25) He noticed in his mirror two vehicles that were traveling in his direction at a high rate of speed. (3RR 29) They were traveling in lane one and lane two, lane one is on the left. (3RR 33) The vehicle in lane one was grey and at the time he thought it was a Dodge Charger; he found out later it was a Dodge Challenger. (3RR 34, 50) The vehicle in lane two was black. (3RR 34) He saw them pass by; Laird was driving at about 65 to 70 mph. (3RR 35) The car in lane two changed into lane three, passed him, and changed into lane two; the black car immediately turned sideways, went perpendicular to the lanes of travel, and continued in a straight path which placed them into the center barrier of the highway. (3RR 36-37) The grey car remained in lane one while the black car was changing lanes. (3RR 41-42) The black car turned perpendicular in front of the grey car and impacted while the grey car continued to travel northbound. (3RR 55-56) State's Exhibit Five is a TranStar video of the accident. (3RR 37-38) At the time the vehicles passed him and continued on they were traveling at an extremely high rate of speed in comparison to everyone else on

the road. (3RR 56-57) The black car lost control before it started veering into lane two then onto lane one and into the barrier. (3RR 84) The car rotated sideways when trying to change lanes. (3RR 86) He did not see the grey car get struck, it just continued in a straight line. (3RR 129-130) The incident occurred quite rapidly so it is hard for him to put it into a time frame. (3RR 71)

Laird positioned his vehicle to block lane one and two and advised dispatch of what he saw and to request units. (3RR 43) Traffic began to gather up. (3RR 43) It was the black car that crashed, when Laird reached the accident, the grey car was gone, it did not remain on scene. (3RR 44) Laird was approximately 300-400 yards behind the black car when it impacted the barrier. (3RR 44) When the black car contacted the barrier there was an immediate cloud of dust and he saw the occupants ejected out of the vehicle. (3RR 45) Laird made contact with the victim in the road and observed the second victim to be obviously deceased. (3RR 45) Laird remained on scene until the arrival of an engine, a ladder, and another EMS unit. (3RR 47) Laird then continued his transfer to the hospital telling them he would return back after. (3RR 48) He returned to the scene and after Laird returned the grey vehicle arrived. (3RR 49) When Laird was enroute to return he was advised by the officer on Engine 46 that they had the entire freeway blocked off so it was safe for him to go the wrong way, so Laird went southbound in the northbound lanes to come opposite the direction of travel (3RR 49-50) The video shows at 12:08 the grey

vehicle coming up behind the police officer, the accident was at 11:17. (3RR 50-51) He was instructed by an officer to go the wrong way on the highway when he returned. (3RR 135) He did not go the route a normal person on the freeway would have gone when he returned. (3RR 136) When the grey Dodge Challenger came onto the scene, Laird was told by the officers that it was involved in the accident, Laird did not tell them it was the one involved. (4RR 12-13)

The injuries to the occupants of the vehicle were consistent with the ejection he observed. (3RR 54-55) A layperson does not have a duty to stop if they see another car in front of them get into a crash. (3RR 130)

Brandon L. Smith

Brandon L. Smith is a senior police officer with the Houston Police Department. (4RR 23) On June 19, 2021, he responded to a motor vehicle crash that happened on 288. (4RR 27-28) The vehicle was black and damaged all around consistent with a rollover. (4RR 30) He was the first officer on scene. (4RR 34) The Vehicular Crimes Division was notified (4RR 35) He ultimately saw the other vehicle involved, a grey Dodge Challenger. (4RR 39) The vehicle arrived around noon driven by Appellant. (4RR 41, 42) The time stamp on the video of Appellant's return is 12:08. (4RR 49) Appellant was not alone, his mom, his dad, and another lady were in the car with him. (4RR 43) Appellant stated he came back to get insurance information for the other vehicle; Smith got Appellant's identifying

information. (4RR 44) The Vehicular Crimes Division took over the investigation. (4RR 48)

Smith was informed on scene by witness Antoinette Turner that it was a one-car accident. (4RR 65) Smith also spoke with Nelson Alexander and Bianca Alexander who said the car went over and almost hit them to the point they had to swerve out of the way. (4RR 66) Nelson never mentioned a grey car causing the concern. (4RR 66-67) Smith does not want vehicles to back their car up and go in reverse on the freeway. (6RR 78) After a major accident like this one the traffic backs up pretty fast. (4RR 78) Traffic did build up pretty fast. (4RR 79) They blocked off the freeway and made cars go up the exit ramp. (4RR 79) They were blocking the freeway off to protect the scene. (4RR 79)

Smith was informed that there was a car trying to return before the ambulance ever returned. (4RR 80) Appellant had approached officers to tell them he needed to get back to the scene. (4RR 80) This is consistent with an individual trying to get back to the scene. (4RR 80) Appellant got back on scene about noon. (4RR 91) Smith does not know if Appellant was ignored by officers when he trying to get back. (4RR 95) Smith does not recall Antoinette Turner, Nelson Alexander, Bianca Alexander, any dispatch or 911 call mentioning Appellant's vehicle during the description of events. (4RR 97)

Loc Ho

Loc Ho has been an officer with the Houston Police Department for eighteen years and is an investigator with the Vehicular Accident Division. (4RR 102, 103) Multiple investigators from the Vehicular Accident Division respond to the scene of a fatal crash as they need officers to do photographs of the scene, do a tow slip, interview witnesses, look for evidence on the roadway, and surveillance cameras around the crash site. (4RR 104-105)

Ho responded on June 19, 2021, to the scene on 288. (4RR 106) He spoke with Appellant. (5RR 108) Ho did not read Appellant his Miranda warnings. (4RR 111) Appellant was present and wanting to tell Ho what happened. (4RR 111) Appellant was on scene when he spoke with Ho. (4RR 113) When Ho spoke with Appellant, the crash was still under investigation. (4RR 112) Appellant said he spoke with an officer before Ho. (4RR 117) Ho looked at the damage on Appellant's car which was a front right damage. (4RR 119) Ho did not think Appellant was under the influence or impaired at all. (4RR 129) When Ho arrived on scene he saw the grey car; Ho was still investigating, he was wanting to know what happened. (4RR 114) Ho knew Appellant was involved because Appellant told him, Ho did not know of how else he would have known other than talking to Appellant. (4RR 115-116) After speaking with Appellant the investigation still continued. (4RR 116) After speaking with Appellant, Ho walked around the scene looking to determine the

direction of force. (4RR 120) The damage to Appellant's car was a sideswipe from another car in Ho's opinion. (4RR 119) After Ho finished interviewing Appellant he told Appellant that he was going to investigate. (4RR 123)

The primary, Office Nguyen, would have been the one who made the decision to arrest Appellant. (4RR 133) Ho does not know who decided to file charges on the passenger of the Kia, Kelly Mattox, for racing. (4RR 136)

Ana Lopez

Dr. Ana Lopez has worked as an Assistant Medical Examiner at the Harris County Institute of Forensic Sciences for 21 years. (4RR 142) The autopsy of the complainant was performed by colleague, Dr. Morna Gonsoulin. (4RR 149) The cause of death was blunt force injuries; the manner of death is accident. (4RR 151) The injuries were consistent with a person being ejected from a motor vehicle and striking or rolling on the pavement. (4RR 154) Lopez does not know if she was the driver. (4RR 160) The toxicology screen was only done for alcohol, there was no additional testing. (4RR 160)

Craig Sartor

Craig Sartor is a detective with the Houston Police Department in the Vehicular Crimes Division. (5RR 13) He responded to the fatal crash on 288 on June 19, 2021. (5RR 19). The damage to the black Kia was consistent with what appears to be a rollover. (5RR 29) The occupants were not wearing seatbelts. (5RR 30) A

yaw mark is a mark left by a tire that as it is rotating it leaves on the ground. (5RR 31) The marks continued up to the wall where the car made impact. (5RR 32) Sartor calculated the speed for the yaw mark at 110 miles per hour. (5RR 37) Sartor inspected the Challenger and saw damage to the front right of the vehicle. (5RR 37) The damage tells Sartor that it stuck an object and that was ahead of it. (5RR 38) Sartor had been told the Kia and Challenger were involved. (5RR 39) The owner of the Challenger was a leasing company; Appellant had rented the vehicle. (5RR 40) The lease date of the Challenger was June 18th through the 21st. (6RR 19) They could not download event data recorder for the Challenger because there was not enough to trigger the airbag in the Challenger's system. (5RR 39) The download of the Kia crash data retrieval showed five seconds before the airbags were deployed it was traveling at 124 miles per hour. (5RR 48) At the time of deployment it was traveling about 88.2 miles per hour. (5RR 49) The brakes on the Kia were never applied. (5RR 50) The video in State's Exhibit Five shows the vehicles were traveling at approximately the same speed as they traveled out of the overpass. (5RR 54)

Appellant told Officer Ho that it all happened within two seconds, which is correct. (5RR 73) Appellant said he drove approximately 60-75 miles per hour which is not accurate because the only way the damage could be sustained on the Challenger is if the Challenger strikes the Kia as it is sliding in front of him. (5RR

73-74) In his opinion the Challenger damage to the front right was from striking the Kia, not the Kia striking the Challenger. (5RR 76)

Sartor was not the one to collect the video surveillance, that was Officers Lares and Bledsoe, he does not know if anyone viewed the other possible camera footage. (5RR 84-85) Officer Nguyen applied for search warrants for the phones of Appellant, the complainant and Kelly Mattox. (5RR 86) Sartor did not review the cellphone contents and does not know if Nguyen did. (5RR 86) Sartor reviewed the three witness's statements. (5RR 87-88) He heard all three witnesses say only one car was involved in the incident. (5RR 88) Sartor is aware Appellant gave a written statement first, then spoke with Officer Ho. (5RR 100) He does not know if Appellant also gave a statement to Officer Edgar Gonzalez. (5RR 100) They do not know if there was any data to be had from the Challenger's event data recorder but they did get the Berla which gives miles per hour. (5RR 104-105) Sartor would not be surprised if the fastest speed recorded by the Berla that day was 71.1 miles per hour. (5RR 105)

Appellant was present at the scene when Sartor arrived. (5RR 106) No one was tasked to do a reconstruction to determine if it was reasonable how Appellant drove after the incident or if his story of how he got back there added up. (5RR 106) No one pulled the video surveillance from the H-E-B where he said he went to look at damage. (5RR 106) No one pulled the gas station video surveillance where

Appellant talked to three officers trying to find out how to get back to the scene on 288. (5RR 107)

The video shows the Challenger did not move during the incident. (5RR 122) It is not common for a vehicle to show no signs of impact when traveling that fast, but Sartor saw it one other time years ago, approximately 2012. (5RR 123-124) Appellant told them the truth of the events, with exception of his speed. (5RR 129) The Kia overcorrected when it changed from the second lane to the third lane and then as it came back it lost control and went into the wall. (5RR 132) The accident was caused by the Kia losing control. (5RR 132) The overcorrection was driver reaction. (5RR 141) The Kia lost control because she overcorrected the vehicle in Sartor's opinion. (5RR 147)

If the Challenger struck a black piece of debris in the road it is possible it could cause the damage to the fender. (5RR 121-122) Sartor thinks the Challenger contacted the Kia as it went in front of the Challenger. (5RR 122) To leave that mark on the Challenger and not the Kia, the Challenger would have had to hit some debris from the Kia itself like the fender that was in the road. (5RR 146) Both cars were decelerating before the crash and one car lost control. (5RR 146-147)

Lakichia Wilson

Lakichia Wilson is the mother of the complainant. (6RR 26) She spoke with the complainant by phone the morning of her death. (6RR 29)

Defense case-in-chief

Appellant

Appellant is now 22 and has a baby boy; he was raised by his mother, grandmother, uncle, and aunt. (6RR 39) In May 2021, he was offered a football scholarship to The Citadel which he had decided to accept. (6RR 43)

On June 19, 2021, he went to the Galleria for an outfit and arrived about 10am. (6RR 44) He was alone in the vehicle. (6RR 45) He had rented the Challenger from Luxo Exotics; he was 19. (6RR 46) The car is fast and has more than 700 horsepower. (6RR 47) He had never been to traffic court before. (6RR 47-48) He was traveling to his grandmothers on 288 and was in the fast lane, lane one. (6RR 48) He was in lane one because it is how 610 funnels onto 288. (6RR 48) He was traveling faster than the other cars in lanes two, three, and four. (6RR 48-49) He was driving with traffic and not watching the accelerator. (6RR 49-50) Appellant was never sure of his real speed. (6RR 88) He saw the Kia when he was in lane one. (6RR 50) He saw it when he was under the overpass and it came up on the side. (6RR 51) He was watching the road and then he saw a pair of headlights perpendicular to him. (6RR 53) It happened in the blink of an eye. (6RR 53) He saw the occupants of the car come out and land, he was driving trying to stay out of the way of what was happening. (6RR 54) He angled his car to the right side of the freeway because everything was happening on the left side. (6RR 54-55)

Everyone else on the road was also trying to avoid what was happening with the car. (6RR 55)

He did not know if his car had been hit. (6RR 55) He called his mother to tell her what he saw. (6RR 55) At the time he called his mother he did not know if he had been hit; he did not get out of the car until after he was on the phone. (6RR 56) He pulled over to catch his breath, talked to his mother, and tell her what had happened. (6RR 99) He looked at the car because he was just near an accident. (6RR 99) The incident happened so fast Appellant did not know where he was. (6RR 104) He pulled over to look at the car, he had exited the freeway at Binz. (6RR 56-57) He went to the H-E-B and got out there to look at the car. (6RR 57) At that time he saw a scratch that had not been there and he told his mother. (6RR 58) He did not know if the damage on the fender was from the Kia striking him. (6RR 97) His mother instructed him to go back to where the accident happened. (6RR 58) He exited right and then did a U-turn around to go back where he came from. (6RR 58) He stopped at the Gulf gas station because it was the closest point to the accident he could get to. (6RR 60, 106) Traffic was not moving and vehicles were compounding all the side streets. (6RR 60-61) He saw police officers directing traffic so he went up to each one and told them he was involved in the situation on the freeway and was asking how to get back down there. (6RR 61) The first officer acted like he did not hear Appellant so Appellant went to another

officer who also did not help. (6RR 61) Appellant approached a third officer who called someone who came to meet Appellant. (6RR 61) The officer who came to Appellant had radioed down to the scene and they told him to bring Appellant; Appellant followed the police escort to the scene. (6RR 62) While he was waiting at the Gulf gas station for the escort Appellant's mother, stepfather, and aunt arrived. (6RR 62) Appellant spoke with Officer Smith at the scene. (6RR 73) Appellant spoke also with Officer Ho and an African American female officer. (6RR 74) After he spoke with Officer Ho, Appellant was told to get back in the car and wait. (6RR 77) He was arrested at the scene and was not able to go to college. (6RR 80-82) Appellant did not believe he could stop right after the incident due to cars turning down the highway. (6RR 83) In his mind immediate means as quick as he could return to the scene. (6RR 108)

Kelly Maddox

Kelly Maddox was the girlfriend of the complainant; they dated for about a year. (8RR 6, 19) Anytime she was in a car with the complainant, the complainant always drove. (8RR 7) They drove to lots of places over the course of a year and Maddox was never the driver. (8RR 8) Maddox would videotape the complainant when she was "driving crazy" at speeds over 100 mph and maneuver through lanes. (8RR 8) Maddox recorded the complainant's driving on May 31, 2021, when the complainant was driving in a substantially similar manner to that on June 19,

2021. (8RR 10) The complainant did not race she just naturally drove super-fast.
(8RR 22-23)

She does not recall giving a statement to EMS on the day of the incident.
(8RR 19-20) She does not recall coming into contact with the Challenger on that
day. (8RR 20-21) Her last memory with the complainant on June 19, 2021, was
when they were on the phone with the complainant's best friend Diamond. (8RR
27-28)

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SUMMARY OF THE ARGUMENTS

Point of Error: The evidence is insufficient to support the jury's
finding of guilt. Accordingly, Appellant's conviction should be
reversed and an acquittal entered.

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APPELLANT'S POINT OF ERROR

The evidence is insufficient to support Appellant's conviction for Failure to
Stop and Render Aid.

Appellant was not aware that he was involved in an accident, and upon
learning his vehicle had been involved, he returned to the scene of the collision
where he provided his information.

In a plurality opinion, the justices of the Court of Criminal Appeals concluded that the *Jackson v. Virginia* legal sufficiency standard is the only standard for determining whether the evidence was sufficient to support each element of a criminal offense that the State is required to prove beyond a reasonable doubt. *Brooks v. State*, 323 S.W.3d 893, 894-895 (Tex. Crim. App. 2010)(citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In a sufficiency review, an appellate court views all evidence in the light most favorable to the verdict and determines whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Salinas v. State*, 163 S.W.3d 734, 737 (Tex. Crim. App. 2005).

The State must prove every element of an offense beyond a reasonable doubt. *Jackson*, 443 U.S. at 318-319. The evidence is not legally sufficient if it is based only on speculation or factually unsupported inferences. *Hooper v. State*, 214 S.W.3d 9, 16-17 (Tex. Crim. App. 2007).

The Failure to Stop and Render Aid statute in effect at the time of the charged offense provided in part:

- (a) The operator of a vehicle involved in an accident that results or is reasonably likely to result in injury to or death of a person shall:
 - (1) immediately stop the vehicle at the scene of the accident or as close to the scene as possible;
 - (2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident;

- (3) immediately determine whether a person is involved in the accident, and if a person is involved in the accident, whether that person requires aid; and
- (4) remain at the scene of the accident until the operator complies with the requirements of Section [550.023](#).

TEX. TRANSP. CODE § 550.021(a).²

Failing to stop, failing to return, and failing to remain are alternate methods of committing the same offense. *Huffman v. State*, 267 S.W.3d 902, 909 (Tex. Crim. App. 2008).

The evidence in this case is insufficient to support a guilty verdict under all three of the alternative methods of committing the offense of Failure to Stop and Render Aid.

First: Failure to Stop

The first subsection of the Failure to Stop and Render Aid governs the duty to stop.

- (a) The operator of a vehicle involved in an accident that results or is reasonably likely to result in injury to or death of a person shall:

- (1) immediately stop the vehicle at the scene of the accident or as close to the scene as possible

TEX. TRANSP. CODE § 550.021(a)(1).

² In 2023 the statute was updated and the term “accident” was replaced throughout with “collision.”

The evidence is legally insufficient to prove that Appellant knew he had been involved in an accident and therefore had a duty to immediately stop his vehicle at the scene of the accident or as close to the scene as possible.

The Court of Criminal Appeals has held that not every kind of accident triggers the legal duties of the statute. *Curry v. State*, 622 S.W.3d 302, 309 (Tex. Crim. App. 2019). The Court of Criminal Appeals has analyzed previous versions of the statute and held “the culpable mental state required for the offense that the accused had knowledge of the circumstances surrounding his conduct, i.e. had knowledge that an accident had occurred.” *Goss v. State*, 582 S.W. 782, 785 (Tex. Crim. App. 1979)(citation to previous statute omitted); *see also Huffman*, 267 S.W.3d at 908. A driver is not required to stop and render aid if he did not know if he was involved in an accident. *Curry*, 622 S.W.3d at 309.

Failure to stop and render aid is a “circumstances surrounding the conduct” offense; the failure to stop, return, or remain is criminal only because of the knowledge of the accident and an injured victim. *Huffman*, 267 S.W.3d at 908.

Appellant did not have a duty to stop and render aid until he had knowledge he was involved in an accident; only when he became aware he might have been involved in the accident did he have a legal duty to return to the scene of the collision.

Appellant did not know he had been involved in an accident until after he stopped, exited the vehicle, and looked at the fender.

State's Exhibit 5 shows the freeway immediately before and after the incident.



At 11:17:08, both cars come into view; the Challenger is in lane one, a white car in lane two, and the Kia in lane three. (State's Exhibit 5)



The Kia then begins to move to lane two. (State's Exhibit 5)



The Kia moves into lane two, while Challenger is in lane one. (State's Exhibit

5)



The Kia begins moving in front of the Challenger in lane one. (State's Exhibit

5)



The Kia moves in front of the Challenger in a perpendicular route from lane one. (State's Exhibit 5)



The Kia is about to strike the guardrail. (State's Exhibit 5) The Challenger is still in lane one. The Challenger's direction has not been changed by the encounter with the Kia. (State's Exhibit 5)



State's Exhibit 49 shows the extent of the damage to Appellant's vehicle front right fender. (State's Exhibit 49)



A close up of the damage in State's Exhibit 49. (State's Exhibit 49) Given the relatively minor damage to Appellant's vehicle, and the fact that the Kia did not affect the direction of his vehicle, it is reasonable that Appellant did not know that his vehicle had been impacted at all by the Kia. The State's expert in reconstruction Sartor agreed that Appellant's car did not move at all in its lane. (5RR 122) Sartor conceded that the damage to the Challenger could have been caused by striking debris from the Kia. (5RR 146)



The Kia left debris in all four lanes of the highway. (State's Exhibit 41)



After the highway camera was adjusted it was possible to see how debris went across all four lanes. (State's Exhibit 5)

While juries are permitted to draw a reasonable inference from the evidence, they are forbidden from drawing a conclusion based on speculation. *Hooper*, 214 S.W.3d at 16. “A conclusion reached by speculation may not be completely unreasonable, but it is not sufficiently based on facts or evidence to support a finding beyond a reasonable doubt.” *Id.*

The State failed to prove that Appellant had knowledge he had been involved in the accident rather than just being an observer of the Kia's collision with the barrier. It is just as likely that there was no accident as no impact is reflected in the videotape, the Challenger's direction remains unchanged, and the scrape to the fender could have been caused by debris from the Kia.

State's Exhibits 5, 49, and 41 support Appellant's testimony that he was unaware of any damage until he looked at the vehicle. It was reasonable that he was unaware of any damage to his car indicating a possible collision until he exited the car and viewed the fender. His lack of knowledge is also supported by the statements of the eyewitnesses on the scene. Officer Smith was informed on scene by witness Antoinette Turner that it was a one-car accident. (4RR 65) Smith also spoke with Nelson Alexander and Bianca Alexander who said the car went over and almost hit them to the point they had to swerve out of the way. (4RR 66) Nelson never mentioned a grey car causing the incident. (4RR 66-67) None of these eyewitnesses saw a collision between the two vehicles.

The testimony of the State's witnesses is consistent with a one car accident. Laird saw the black car lose control before it started veering into lane 2 then onto lane one and eventually into the barrier. (3RR 84) He witnessed it rotate sideways when trying to change lanes. (3RR 86) Laird did not see the grey car get struck, the grey car continued in a straight line. (3RR 129-130) At the time Laird was 300-400

behind when the Kia hit the barrier. (3RR 44) It would not have been possible for him to see any negligible contact between the two cars from three to four football fields away. Sartor agreed the video shows the Challenger did not move during the incident. (5RR 122) Sartor stated it is not common for a vehicle to show no signs of impact when traveling that fast, the only time he is aware of was one incident when he was in training more than a decade before Appellant's trial. (5RR 123-124) There is no reason to believe Appellant was dishonest about his lack of knowledge, Sartor agreed that Appellant told them the truth of the events, with exception of his speed. (5RR 129)

All of the witnesses agreed the accident occurred as the result of the overcorrection of the Kia. The accident was in no way caused by Appellant and the evidence shows he had no reason at all to believe he may have been in a collision until he got out of the vehicle to examine the front of it. He then realized he might have been involved in the accident instead of just being a witness to it, only at this time would he have a duty pursuant to the statute to return to the scene,.

The fact that there is a separate subsection for the offense about the duty to return to an accident is proof in and of itself that a reasonable person may not be aware they were involved in an accident until after leaving the scene. Upon realizing they were involved in accident they are then legally required to return to the scene.

No reasonable juror could have found that Appellant knew in the moment right after the incident that he needed to remain at or close to the scene.

Second: Failure to Return

The second subsection of the Failure to Stop and Render Aid governs the duty to return to the scene.

(a)The operator of a vehicle involved in an accident that results or is reasonably likely to result in injury to or death of a person shall:

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident;

TEX. TRANSP. CODE § 550.021(a)(2)

Upon viewing the fender Appellant attempted to return but the roadways were already impacted by the shutdown of the freeway. He worked to return to the scene, but he was unable to return on his own due to the freeway being shut down.



Within one minute traffic significantly built up since the Kia struck the rail.
(State's Exhibit 5)



The freeway was at a standstill two minutes after the Kia's collision with the wall. (State's Exhibit 5)



It took over seven minutes for the first emergency vehicle, Smith's police car, to make it to the scene even though it has a siren and emergency lights. (State's Exhibit 5)



It also took seven minutes for the first fire department units to arrive even though Laird had used his unit radio immediately after the collision and the units have a siren and emergency lights. (State's Exhibit 5)



An ambulance arrives to assist along with a ladder truck. (State's Exhibit 5)



Police units officially blocked off all four lanes of the freeway. (State's Exhibit

5)



Officers began guiding traffic the wrong way up the entry ramp to the freeway to get traffic off the freeway. (State's Exhibit 5)

Appellant approached three different officers who were directing traffic on side streets in an effort to get back to the scene. (6RR 61) The third officer alerted the others that Appellant was trying to return and officers were dispatched to assist. (6RR 61)



Officers at the scene held the exiting traffic as the two police units escorted Appellant back to the scene. (State's Exhibit 5)

Appellant complied with his obligations under the statute to return to the scene of the accident once he had knowledge that he had possibly been involved in an accident. Given the traffic conditions, Appellant was unable to return to the scene in a quick fashion. Unlike Laird he did not have officer clearance to come the wrong way down the freeway. Officer Smith was informed that there was a car trying to return before Laird's ambulance ever returned to the scene. (4RR 80) State's Exhibit Five shows Laird's ambulance returning at 11:46:41, therefore Appellant had

contacted law enforcement officers prior to that time and they were aware that he had been trying to return to the scene. (State's Exhibit Five) The fact that it took him a prolonged period of time to make it back to the scene was attributed to the traffic, not because he was attempting to avoid his responsibility.

Furthermore, the investigation was still ongoing at the time Appellant returned to the scene of the accident. It is apparent in State's Exhibit 5 that when Appellant returned to the scene the officers were still actively conducting the investigation of the crash. Debris is visible across the roadway and the complainant had not been taken from the scene. (State's Exhibit 5) When Appellant returned to the scene Officer Sartor had not yet arrived. (5RR 106) Upon arrival at the scene Officer Smith obtained Appellant's information. (4RR 44) Smith testified that Appellant's actions in reaching out to other officers were consistent with an individual trying to get back to the scene. (4RR 80) Officer Ho testified that when he spoke with Appellant at the scene the crash was still under investigation. (4RR 112) Appellant was present at the scene when Sartor arrived in his role with the Vehicular Crimes Division. (5RR 106)

The State did not prove beyond a reasonable doubt that Appellant failed to return to the scene as immediately as possible given the traffic to get to area of the scene. The State did not attempt to dispute Appellant's statements regarding his efforts to return to the scene. No one from law enforcement attempted to recreate Appellant's path or viewed surveillance tapes at the H-E-B or gas station despite

Appellant providing information to multiple officers and being fully cooperative once he returned to the scene. The State provided no evidence to show that Appellant did not return as soon as possible upon learning his vehicle may have been involved in an accident. Appellant's actions were fully consistent with the legal obligation to immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident.

No reasonable juror could have found that Appellant failed to immediately return to the scene soon as possible, the traffic made the scene impossible to reach on his own and when he returned to the scene of the accident it was still under active investigation.

Third: Failure to Remain

The third subsection of the Failure to Stop and Render Aid governs the duty to remain.

- (a) The operator of a vehicle involved in an accident that results or is reasonably likely to result in injury to or death of a person shall:
 - (4) remain at the scene of the accident until the operator complies with the requirements of Section [550.023](#).

TEX. TRANSP. CODE § 550.021(a)(4).

There is no evidence from any source that Appellant failed to remain at the scene after his return or that he failed to comply with Section 550.023. Upon returning to the scene Appellant provided his information to Officer Smith and

complied with law enforcements' directions. (4RR 44) Appellant was arrested while at the scene. No reasonable juror could have found that Appellant failed to remain at the scene until he complied with Section 550.023.

Appellant's actions in not stopping at or close to the scene were reasonable as he did not know he may have been involved in an accident; when Appellant learned he might have been involved he returned to the scene as fast as possible given the road conditions where the investigation was still on-going; and upon returning to the scene Appellant cooperated with law enforcement and provided his information.

A conviction in this case is based on speculation or unsupported inferences. This is not proof beyond a reasonable doubt as required by the Constitutions. No reasonable jury could have found that Appellant knowingly failed to stop, or that he failed to return to the scene where the investigation was on-going, or that Appellant failed to remain at the scene once he returned.

In sum, the evidence presented is insufficient to support the jury's finding of guilt in this case. Accordingly, Appellant's conviction should be reversed and an acquittal ordered.

CONCLUSION AND PRAYER

It is respectfully submitted that the evidence is insufficient to support the jury's finding of guilt. Accordingly, the verdict should be reversed and an acquittal entered.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing instrument has been delivered to Appellee's attorney on November 1, 2024 via efile.

/s/Judith Shields
Judith Shields

CERTIFICATE OF COMPLIANCE

This is to certify that this brief complies with the typeface requirements of TEX. R. APP. P. 9.4(e) because it has been prepared in a conventional typeface no smaller than 14-point for text and 12-point for footnotes. This document also complies with the word-count limitations of TEX. R. APP. P. 9.4(i), if applicable, because it contains 6907 words according to the word count on Microsoft Word.

/s/Judith Shields
Judith Shields

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