FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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| **STATE OF IOWA,** | ) | |
| Plaintiff-Appellee, | ) | |
| vs. | ) | |
| **RONALD BRAMMER,** | ) | 8-383<br>87-1694 |
| Defendant-Appellant. | ) | |

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Appeal from the Iowa District Court for Polk County (OM-20449), Ray Hanrahan, Judge.

Defendant appeals his conviction, following a jury trial, of driving while intoxicated after a single-vehicle accident in which an 18-wheel semi-truck trailer overturned. **AFFIRMED.**

Alfredo Parrish of Parrish & Kruidenier, Des Moines, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Carolyn J. Olson, Assistant Attorney General; for plaintiff-appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

**SCHLEGEL, P.J.**

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Defendant appeals his conviction of the crime of operating a motor vehicle while intoxicated (OWI) in violation of Iowa Code section 321J.2 (1987), claiming that there was insufficient evidence to show that he was driving the vehicle that was involved in a one-vehicle accident. We affirm.

Defendant and one Phyllis Kimrey were the occupants of a semi-tractor trailer outfit that overturned on the interstate highway. Defendant was arrested for OWI and was convicted on trial. He claimed, at the time of trial, that he was in the sleeper compartment of the semi-tractor, and that Kimrey was driving the truck at the time of the accident. It is his claim that Kimrey and he were in business together, operating the truck as a part of that business.

The State presented evidence from police officers and from independent witnesses that Kimrey had told them the defendant was driving the truck and that he started to go off the road, whereupon Kimrey grabbed the wheel and the truck turned over. At trial, both defendant and Kimrey testified that Kimrey was the driver.

In deciding whether there is substantial evidence, this court views the evidence in the light most favorable to the verdict. State v. Blair, 347 N.W.2d 416, 418 (Iowa 1984). Evidence is substantial when a reasonable mind would accept

it as adequate to reach a conclusion. State v. Robinson, 288 N.W.2d 337, 338 (Iowa 1980). Credibility of witnesses is for the jury to determine. State v. Blair, 347 N.W.2d at 420.

The jury obviously believed the State's witnesses and disbelieved the defendant and Kimrey. Our review convinces us that there was sufficient evidence to support that finding.

The defendant complains the court was in error in refusing to admit Kimrey's affidavit, which consisted of a prior statement that was consistent with her testimony. The statement was hearsay and was not admissible. The defendant's argument to the contrary is without merit.

The conviction was supported by substantial evidence.

**AFFIRMED.**