DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

DEVONTAE JACKSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2023-1567

[July 3, 2024]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Barbara R. Duffy, Judge; L.T. Case No. 20-008822CF10A.

Jason T. Forman of Law Offices of Jason T. Forman, P.A., Fort Lauderdale, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Anesha Worthy, Senior Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Affirmed. *See State v. Cowart*, 301 So. 3d 332, 334 (Fla. 5th DCA 2020) (stating that on a Rule 3.190(c)(4) motion to dismiss, the state "is not only entitled to receive the most favorable construction of the evidence but also to have all inferences resolved against the defendant"); *Natal v. State*, 278 So. 3d 705, 707 (Fla. 4th DCA 2019) (observing that in considering whether driving at the speed at issue constitutes recklessness, each case turns on its specific facts and pointing out that "[a] vehicle travelling 100 miles per hour on an interstate highway does not pose the same level of wanton conduct as does a vehicle travelling ninety miles an hour on a street with various side streets, driveways entering the street, and overall additional congestion"); *Copertino v. State*, 726 So. 2d 330, 332 (Fla. 4th DCA 1999) (pointing out that "the rate of speed of a vehicle can be firmly shown by the evidence to be so excessive under the circumstances that to travel that fast under the conditions is by itself a reckless disregard for human life or the safety of persons exposed to the speed"); *Pozo v. State*, 963 So. 2d 831, 832–34 (Fla. 4th DCA 2007) (holding that denial of a motion for judgment of acquittal was proper where defendant driving

between 67 and 90 miles per hour in a residential area with a speed limit of 35 miles per hour, along with other factors demonstrating inattention); *State v. Gensler*, 929 So. 2d 27, 29 (Fla. 3d DCA 2006) (reversing an order granting a motion to dismiss where defendant speeding at 90 miles per hour in a commercial area late at night where the posted speed limit was 45 miles per hour).

KLINGENSMITH, C.J., GROSS and FORST, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.