[Cite as *In re F.W.*, 2009-Ohio-5877.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
SANDUSKY COUNTY

In the Matter of: F.W.

Court of Appeals No. S-09-003

Trial Court No. 20820573

DECISION AND JUDGMENT

Decided: November 6, 2009

* * * * *

Barry W. Bova, for appellant.

Thomas L. Stierwalt, Sandusky County Prosecuting Attorney,
and Norman P. Solze, Assistant Prosecuting Attorney, for appellee.

* * * * *

SINGER, J.

{¶ 1} This is an appeal from a judgment of the Sandusky County Court of Common Pleas, Juvenile Division, which adjudicated appellant, F.W., delinquent for committing the offense of trafficking in drugs. For the reasons that follow, we affirm.

{¶ 2} Appellant asserts one assignment of error:

{¶ 3} "The appellant's convictions should be reversed since the trial court's decision is against the manifest weight of the evidence."

{¶ 4} On September 19, 2008, a complaint was filed charging appellant with delinquency for trafficking in drugs. The case proceeded to an adjudicatory trial where the following evidence was presented.

{¶ 5} Fremont, Ohio Police Officer Devon Howard testified that he was on duty in the early morning hours of September 19, 2008, when he received a call to investigate a woman's scream in the area. At approximately 1:43 a.m., Officer Howard arrived at May Street where a woman was purportedly heard screaming. He was unable to locate a woman but he did encounter two individuals walking down the street. Officer Howard initially stopped the individuals to ask them if they had heard any screaming. Upon learning that the two individuals were juveniles who were out past curfew, Officer Howard further detained them. In speaking with appellant, Officer Howard testified that he detected an odor of alcohol emanating from his breath and noticed that his eyes were slightly red. Appellant admitted to Officer Howard that he had been drinking alcohol. Officer Howard testified that he then decided he would arrest appellant for underage drinking and for being out past curfew. Following appellant's arrest, Officer Howard searched appellant. On his person, Officer Howard found one large baggie containing nine small baggies of a vegetative substance that Officer Howard believed to be marijuana.

{¶ 6} Fremont Police Officer Michael J. Dohanna testified that he assisted Officer Howard in the arrest of appellant. Officer Dohanna testified that in the approximately 15 years he has been a police officer he has been involved in many arrests for marijuana. He explained that he has been trained in the area of drug interdiction and drug identification, especially marijuana. Through training, he has learned how to search vehicles and people for drugs. He testified that based on the smell and the appearance of the green, leafy substance that appellant was carrying; he believed it to be marijuana. He testified that through his training and experience, he has learned that marijuana packaged in multiple, small bags, indicates that the drugs have been prepared for distribution to others. Based on this evidence, the trial court determined that appellant was delinquent for committing the offense of trafficking in marijuana, a violation of 2925.03(A)(2).

{¶ 7} In his sole assignment of error, appellant contends that the court's adjudication of delinquency is against the manifest weight of the evidence.

{¶ 8} Specifically, appellant contends that the mere fact that he possessed small, individual bags of marijuana is not enough to prove that he was intending to sell the marijuana.

{¶ 9} We first note that due process affords juveniles the same protections afforded criminal defendants, notwithstanding the civil nature of juvenile proceedings. *In the Matter of: Jesse A.C.* (Dec. 7, 2001), 6th Dist. No. L-01-1271. Accordingly, "we review juvenile delinquency adjudications using the same weight and sufficiency standards that we would use for criminal defendants." Id.

{¶ 10} When determining whether a conviction was contrary to the manifest weight of the evidence, the appellate court serves as a "thirteenth juror" to conclude whether the trial court so significantly lost its way as to result in a manifest miscarriage of justice, necessitating that the conviction be overturned. *Thompkins*, at 387. In reaching this decision, we grant substantial deference to the trial court's determination given its unique opportunity to closely observe and assess the demeanor and credibility of the witnesses and of the evidence presented. *State v. Mickles*, 6th Dist. No. L-05-1206, 2006-Ohio-3803.

{¶ 11} The elements of R.C. 2925.03(A)(2) are as follows:

{¶ 12} "No person shall knowingly do any of the following:

{¶ 13} "* * *

{¶ 14} "(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person."

{¶ 15} Appellant cites numerous cases to support his contention that the officers needed to find more evidence than just the packages, such as a scale or large sums of money, to prove that the marijuana was for any other reason other than for appellant's personal use. It is true that the cases appellant has cited involve situations where officers found other indications of drug trafficking in addition to small plastic bags. This does not, however, change the fact that the trier of fact in this case was free to conclude, based

on Officers Dohanna's testimony, supported by his training and experience, that the total number of packages and the method of the packaging indicates that the drugs were being transported for sale and were not simply for defendant's personal use. Finding no evidence that the trial court lost its way as to result in a manifest miscarriage of justice, appellant's sole assignment of error is found not well-taken.

{¶ 16} On consideration whereof, we find that appellant was not prejudiced or prevented from having a fair trial and the judgment of the Sandusky County Court of Common Pleas, Juvenile Division, is affirmed. Pursuant to App.R. 24, appellant is ordered to pay the costs of this appeal.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, P.J. _____
JUDGE

Mark L. Pietrykowski, J. _____
JUDGE

Arlene Singer, J. _____
CONCUR.
JUDGE