[Cite as *Cleveland v. Anderson*, 2009-Ohio-6642.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92621

CITY OF CLEVELAND

PLAINTIFF-APPELLEE

vs.

JAMES E. ANDERSON, JR.

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cleveland Municipal Court
Case Nos. 2008 CRB 022118, 2008 CRB 033830,
2008 CRB 033880 and 2008 TRD 064073

BEFORE: Jones, J., Blackmon, P.J., and Sweeney, J.

RELEASED: December 17, 2009

JOURNALIZED:

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LARRY A. JONES, J.:

{¶ 1} Defendant-appellant, James E. Anderson, Jr. ("Anderson") appeals his conviction. Finding no merit to the appeal, we affirm.

{¶ 2} In 2008, Anderson was cited in four different cases with violations of Cleveland's Codified Ordinances regarding the hauling of solid waste and parking the truck that he uses to haul waste on a residential street. Anderson pled not guilty and the matter proceeded to trial before the bench, at which Anderson proceeded pro se.

{¶ 3} The following evidence was adduced at trial.

{¶ 4} In July 2008, a Cleveland police officer observed Anderson driving with the truck bed full of miscellaneous junk, appliances, and scrap metals. The officer noticed that Anderson did not have a tarp over the bed of the truck, as is required by city ordinance. The officer pulled Anderson over and cited him for a violation of C.C.O. 551.18. The officer also cited him with a violation of C.C.O. 551.19(f), which requires a hauler to have his name and address on the side of his truck. The officer testified that the items in the back of the truck were not secured.

{¶ 5} Anderson testified that he had been hauling scrap for 18 years and owns four licensed trucks. He testified that he was not hauling solid waste when he was pulled over, rather he was transporting appliances and other items secured in the back of the truck. He conceded that he did not have his name and

address on the side of his truck on the day he was cited, but did not believe he needed to because he was, in his opinion, hauling junk, not solid waste.

{¶ 6} The trial court found Anderson guilty of both violations and fined him $1,050. The trial court then proceeded to trial on the parking offenses.[1] The court found Anderson guilty of the two parking violations, fined him $500 with $400 waived, and assessed court costs.

{¶ 7} Anderson now appeals, raising one assignment of error for our review. In his sole assignment of error, Anderson argues that there was insufficient evidence to convict him of the violations of Cleveland's Codified Ordinances.

{¶ 8} The standard of review for the sufficiency of evidence is set forth in *State v. Bridgeman* (1978), 55 Ohio St.2d 261, 381 N.E.2d 184, syllabus, which states:

{¶ 9} "Pursuant to Crim.R. 29(A), a court shall not order an entry of judgment of acquittal if the evidence is such that reasonable minds can reach different conclusions as to whether each material element of a crime has been proved beyond a reasonable doubt."

{¶ 10} See, also, *State v. Apanovitch* (1987), 33 Ohio St.3d 19, 23, 514 N.E.2d 394; *State v. Davis* (1988), 49 Ohio App.3d 109, 113, 550 N.E.2d 966.

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[1] Anderson does not raise any issues in his appellate brief regarding his citations for parking violations; therefore, we will not address those convictions on appeal.

{¶ 11} *Bridgeman* must be interpreted in light of the sufficiency test outlined in *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541 and *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492. A challenge to the sufficiency of the evidence supporting a conviction requires a court to determine whether the prosecution has met its burden of production at trial. *Thompkins*.

{¶ 12} On review for sufficiency, courts are to assess not whether the prosecution's evidence is to be believed, but whether, if believed, the evidence against a defendant would support a conviction. Id. The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *Jenks* at paragraph two of the syllabus.

{¶ 13} In this case, Anderson was charged with violations of C.C.O. 551.18, 551.19, and 551.25. First, Anderson was convicted of transporting solid waste without a tarp in violation of C.C.O. 551.18(a), which provides, in pertinent part:

{¶ 14} "In order to prevent the spilling of waste, no person shall use * * * a vehicle to convey * * * solid waste, unless such vehicle is equipped with a canvass cover that is securely fastened to such vehicle so as to completely cover all of the material contained therein at all times, except when the contents are being loaded or unloaded."

{¶ 15} C.C.O. 551.19(f) provides:

{¶ 16} "A vehicle used to collect, transport, carry or haul solid waste in the City shall have imprinted on both sides the name, address and telephone number

of the person owning the vehicle. The name shall be printed in letters three inches high and not less than three-eighths of an inch wide. Lettering shall be done in a color which will contrast sharply with the background upon which it is painted and shall be placed in such a position as to be easily seen by anyone wishing to identify the vehicle. Markings shall be kept clear and distinct at all times."

{¶ 17} Anderson claims that there is insufficient evidence to convict him of transporting solid waste without a tarp because the city of Cleveland ("City") failed to establish that the items in the back of his truck were "solid waste." He argues that what he hauls is "scrap" or "junk." We find this argument unpersuasive.

{¶ 18} Solid waste is defined in C.C.O. 551.01(C) as:

{¶ 19} "such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, household, community and private operations * * *. Such material shall be deemed to include, but not be limited to, garbage, rubbish (both combustible and noncombustible), street dirt, debris, ashes, any discarded matter to be removed from public and private properties and other like substances which may be harmful or inimical to public health, as well as other items determined to be solid waste by the Director of Public Service."

{¶ 20} This court was recently faced with a similar case in which the defendant was charged with a violation of Cleveland's ordinance regarding the hauling of solid waste. In *Cleveland v. Eiland*, Cuyahoga App. No. 91671, 2009-Ohio-1692, we stated that "[w]hen interpreting a statute, 'a court's paramount concern is the legislative intent in enacting the statute. In determining

legislative intent, the court first looks to the language in the statute and the purpose to be accomplished. Words used in a statute must be taken in their usual, normal or customary meaning. It is the duty of the court to give effect to the words used and not to insert words not used. Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no need to apply rules of statutory interpretation.'" Id., citing *State ex rel. Richard v. Bd. of Trustees of the Police & Firemen's Disability & Pension Fund*, 69 Ohio St.3d 409, 411-412, 1994-Ohio-126, 632 N.E.2d 1292. (Internal citations and quotations omitted.)

{¶ 21} In *Eiland*, we found that when C.C.O. 551.01(C) is read as a whole, it is clear that solid waste includes unwanted solid material from a household. Id. at ¶12.

{¶ 22} In this case, Anderson testified that the material on his truck came from houses that were being demolished throughout the city. Thus, we find there was sufficient evidence that the items in Anderson's truck constituted solid waste as defined by C.C.O. 551.01(C). As stated in *Eiland*, that type of material is what is contemplated by the ordinance. Thus, having found that the items constituted solid waste, we conclude that there was sufficient evidence to find that Anderson violated C.C.O. 551.18 when he transported these items without a tarp.

{¶ 23} We also find that there was sufficient evidence to convict Anderson of a violation of C.C.O. 551.19, which required him to have his name and address on his truck. We are not persuaded by Anderson's argument that having the

city-issued "Junk Cart" placard on his truck is sufficient and the City never told him he needed to have his name and address on his truck. C.C.O. 551.19 is clear in its requirements as to what it required on a vehicle hauling solid waste; Anderson's truck was required to have his name and address printed on it in accordance with the specifications listed in the statute. Moreover, we look to the ancient truism *ignorantia juris non excusat*, or ignorance of the law is no excuse. See *Einhorn v. Ford Motor Co.* (1990), 48 Ohio St.3d 27, 30, 548 N.E.2d 933.

{¶ 24} The sole assignment of error is overruled.

Judgment is affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cleveland Municipal Court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

LARRY A. JONES, JUDGE

PATRICIA A. BLACKMON, P.J., and
JAMES J. SWEENEY, J., CONCUR.