[Cite as *State v. Kidd*, 2018-Ohio-2601.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

LAKE COUNTY, OHIO

STATE OF OHIO,	:	**O P I N I O N**
Plaintiff-Appellee,	:	**CASE NO. 2017-L-098**
- vs -	:	
DAVID M. KIDD,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Willoughby Municipal Court, Case No. 2017 CRB 00576.

Judgment: Affirmed.

Richard J. Perez, City of Willoughby Prosecuting Attorney, 4230 State Route 306, Suite 240, Willoughby, OH 44094 (For Plaintiff-Appellee).

James V. Loiacono, 41 East Erie Street, Painesville, OH 44077 (For Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} David M. Kidd appeals from the judgment of the Willoughby Municipal Court, finding him guilty of criminal damaging, a misdemeanor of the second degree, in violation of R.C. 2902.06(A)(1). Finding no reversible error, we affirm.

{¶2} Thursday, February 2, 2017, shortly after 5:00 p.m., Officer Joseph Putney of the Willoughby Police Department responded to a call at an apartment complex located at 37937 Euclid Avenue, Willoughby, Ohio. There he spoke with the resident of Apartment

#2, Marjorie Dorsey. She told him that her ex-boyfriend, Mr. Kidd, had broken the pane of glass located on her side door, when their minor son, T.K., refused to allow Mr. Kidd to take T.K. to his karate class.

{¶3} Mr. Kidd was eventually arrested, and charged with criminal damaging. The matter came on for bench trial July 6, 2017. Officer Putney testified for the state. He testified that most of the broken glass from the pane was located inside Ms. Dorsey's apartment.

{¶4} Ms. Dorsey also testified for the state. She testified she opened the door, told Mr. Kidd that T.K. did not want to go to his karate class, then closed the door. She testified she was already walking up the stairs when she heard the pane smash.

{¶5} Mr. Kidd appeared pro se, and testified on his own behalf. He denied breaking the pane. He stated that Ms. Dorsey opened the door, told him T.K. would not be coming, then slammed the door, striking her own dog on the head, as the dog tried to get outside. He testified that he managed to grab the dog, and that after Ms. Dorsey opened the door again to let the dog in, she again slammed it shut, causing the pane to break either because of the force she used, or because the pane struck him. He further testified that he is a contractor, and that the effect of slamming a door shut so hard a pane of glass in it breaks, would cause the glass to fall inward.

{¶6} Candice Dryer, Mr. Kidd's girlfriend, also appeared on his behalf. She testified she accompanied him that evening to pick up T.K. Otherwise, her testimony mirrored that of Mr. Kidd.

{¶7} The trial court announced its decision from the bench. It found Ms. Dorsey's testimony more believable than that of Mr. Kidd and Ms. Dryer, and so found Mr. Kidd

guilty. The trial court ordered Mr. Kidd to serve 90 days in jail, with 80 suspended, and ten reserved. Mr. Kidd was ordered to complete an anger management class. The trial court ordered him to pay a $100 fine, and court costs. The issue of restitution for the broken glass pane was reserved for a review hearing to be held in 80 days. The trial court further ordered that he serve one year on probation. The trial court filed its judgment entry of sentence the same day as trial was held.

{¶8} Mr. Kidd timely noticed this appeal, assigning a single error: "The trial court committed prejudicial error in finding defendant-appellant guilty of having violated R.C. 2909.06(A)(1), Criminal Damaging or Endangering, as a result of a factual finding and a legal conclusion that were not supported by sufficient evidence, and are against the manifest weight of the evidence."

{¶9} While the assignment of error challenges both the sufficiency of the evidence underlying Mr. Kidd's conviction, as well as the manifest weight of that evidence, all of his arguments are directed to manifest weight, so we will confine our analysis to that issue.

{¶10} In *State v. Howdyshell*, 11th Dist. Ashtabula No. 96-A-0064, 1997 WL 531236, *2 (Aug. 29, 1997) this court stated:

{¶11} "[A] verdict will not be reversed on the ground that it is against the *manifest weight* of the evidence unless,

{¶12} '"(t)he court reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered."' *State*

v. Schlee (Dec. 23, 1994), Lake App. No. 93-L-082, unreported, quoting *State v. Davis* (1988), 49 Ohio App.3d 109, 113, * * * (Emphasis sic.) (Parallel citation omitted.)

{¶13} In support of his assignment of error, Mr. Kidd admits the trial court found Ms. Dorsey the more credible witness. He further admits this was within the right of the trial court. However, he points to her testimony that she had her back to the door, and was walking up the stair, when the pane of glass broke. Thus, he contends she did not know what caused the pane to break, and that the trial court improperly implied he broke it.

{¶14} We respectfully disagree. The trier of fact – in this case, the trial court – may base its judgment on reasonable inferences from the evidence introduced at trial. *Howdyshell*, *supra*, quoting *Schlee*, *supra*. Thus, in this case, the trial court could reasonably infer that Mr. Kidd broke the pane of glass, since he had been standing outside the door when Ms. Dorsey shut it seconds before.

{¶15} The assignment of error lacks merit.

{¶16} The judgment of the Willoughby Municipal Court is affirmed.

THOMAS R. WRIGHT, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.