[Cite as *State v. Field*, 2020-Ohio-3525.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF MEDINA	)	

STATE OF OHIO Appellee v. CAILYNN FIELD Appellant	C.A. No. 19CA0074-M APPEAL FROM JUDGMENT ENTERED IN THE MEDINA MUNICIPAL COURT COUNTY OF MEDINA, OHIO CASE No. 19TRD02837

DECISION AND JOURNAL ENTRY

Dated: June 30, 2020

CARR, Judge.

{¶1} Appellant, Cailynn Field, appeals the judgment of the Medina Municipal Court. This Court affirms.

I.

{¶2} This matter arises out of a collision that occurred in the parking lot of the post office in Medina, Ohio, on April 12, 2019. Field was backing her sedan out of a parking space when she collided with an SUV driven by K.C., who was backing out of a separate parking space. After a brief exchange, Field drove away from the scene.

{¶3} Field was charged with one count of failure to stop after a nonpublic road accident in violation of R.C. 4549.021, a misdemeanor of the first degree. Field pleaded not guilty to the charge at arraignment. The matter proceeded to a bench trial where the trial court found Field guilty of the sole count in the complaint. The trial court imposed a $300 fine as well as a six-month driver's license suspension.

{¶4} On appeal, Field raises two assignments of error.

II.

ASSIGNMENT OF ERROR I

> THE STATE OF OHIO, CITY OF MEDINA, PRESENTED INSUFFICIENT EVIDENCE TO SUSTAIN A CONVICTION FOR [FAILING TO] STOP AFTER [AN] ACCIDENT ON OTHER THAN PUBLIC ROADS IN VIOLATION OF [R.C.] 4549.021 AND THE TRIAL COURT ERRED AS A MATTER OF LAW IN DENYING THE DEFENDANT'S [CRIM.R.] 29 MOTION FOR JUDGMENT OF ACQUITTAL.

{¶5} In her first assignment of error, Field argues that the City failed to present sufficient evidence to sustain a conviction under R.C. 4549.021. This Court disagrees.

{¶6} Crim.R. 29(A) provides, in relevant part:

> The court on motion of a defendant or on its own motion, after the evidence on either side is closed, shall order the entry of a judgment of acquittal of one or more offenses charged in the indictment, information, or complaint, if the evidence is insufficient to sustain a conviction of such offense or offenses. The court may not reserve ruling on a motion for judgment of acquittal made at the close of the state's case.

{¶7} When reviewing the sufficiency of the evidence, this Court must review the evidence in a light most favorable to the prosecution to determine whether the evidence before the trial court was sufficient to sustain a conviction. *State v. Jenks*, 61 Ohio St.3d 259, 279 (1991).

> An appellate court's function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt. 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.

Id. at paragraph two of the syllabus.

{¶8} Field was convicted of violating R.C. 4549.021(A), which states in relevant part:

> (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or

> collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's license.
>
> (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in division (A)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the police department of the city or village in which the accident or collision occurred, or if it occurred outside the corporate limits of a city or village, to the sheriff of the county in which the accident or collision occurred.

R.C. 4549.021(B)(1) provides that whoever violates division (A)(1) is guilty of failure to stop after a nonpublic road accident.

{¶9} In support of her assignment of error, Field contends that the City failed to demonstrate that the collision in this case resulted in injury or damage to persons or property. While Field acknowledges that her vehicle made contact with K.C.'s vehicle, she maintains that there was no proof of actual damage to either vehicle and that any testimony regarding possible damage was speculative. Field concludes that because there was no damage to either vehicle, she was not required to stop and exchange information.

{¶10} The City presented evidence at trial supporting the following narrative. At approximately 11:00 a.m. on the morning of April 12, 2019, K.C. traveled to the post office on North Court Street in Medina. After dropping off several packages inside the facility, K.C. walked to her Toyota Rav4 SUV that was in the parking lot. As K.C. began to back her SUV out of its parking space, she heard a "crunch." K.C. immediately exited her vehicle and saw that she had "kissed bumpers" with a four-door Toyota sedan driven by Field. When asked if she observed any damage, K.C. responded in the affirmative. K.C. explained that Field's rear bumper was "crunched in[.]" The damage to Field's sedan was in proximity to where the vehicles had collided.

While both drivers were initially confused as to how the collision had occurred, it became apparent that the vehicles collided as they were simultaneously backing out of their respective parking spaces.

{¶11} K.C. asked Field for her identification and insurance information. Field indicated that she did not have her insurance card but that she was willing to write down her information. Field then walked back to her vehicle, where there was a man and a baby inside. Field returned to K.C. and indicated that she did not have a pen. K.C. responded that she was willing to lend Field a pen. At that time, another driver began "honking and swearing" because the vehicles were blocking access to the parking lot. K.C. asked Field to move her vehicle but Field was unwilling to do so. When K.C. suggested that they call the police to file a report, Field stated that her baby was crying and that she needed to take her baby to a hospital. Field then got in her car and drove away.

{¶12} K.C. testified that she did not know Field's identity at that time, but she was aware of Field's address because it had been repeated out loud several times when both individuals were inside the post office. K.C walked inside the post office and explained the situation to the postal worker who had previously assisted Field. Though initially hesitant, the postal worker ultimately provided K.C. with Field's name when K.C. was able to correctly state Field's address.

{¶13} K.C. then went to the police station and made a statement to Officer Michael Wovna regarding the accident. Officer Wovna inspected K.C.'s vehicle and noticed some "minor scratches and indentations" in her bumper. K.C. indicated that she was not concerned about the scratches. Officer Wovna asked dispatch to run a vehicle check to see if Field owned a vehicle matching the description given by K.C. The following day, Officer Wovna was able to make telephone contact with Field. In addition to claiming that K.C. was irate at the scene, Field insisted

K.C. had accused her of being a poor parent and had further threatened to call Children's Services. One week later, Field traveled to the police station to fill out her portion of the accident report.

{¶14} Field's contention that the City failed to present evidence that either vehicle was damaged as a result of the collision is without merit. We remain mindful that we must construe the evidence in the light most favorable to the prosecution in resolving a sufficiency challenge. *Jenks*, 61 Ohio St.3d at 279. While Officer Wovna observed scratches and indentations on K.C.'s bumper in the location that was involved in the collision, K.C. was dismissive of the notion that her vehicle was damaged. Notably, however, K.C. testified that Field's vehicle was in fact damaged as a result of the accident. Specifically, K.C. observed that Field's bumper was "crunched in[.]" This evidence, when construed in the light most favorable to the City, was sufficient to survive Field's motion for a judgment of acquittal.

{¶15} The first assignment of error is overruled.

ASSIGNMENT OF ERROR II

> THE DEFENDANT'S CONVICTION FOR [FAILING TO] STOP AFTER [AN] ACCIDENT ON OTHER THAN PUBLIC ROADS IN VIOLATION OF [R.C.] 4549.021 IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND THE CONVICTION MUST BE REVERSED.

{¶16} In her second assignment of error, Field contends that her conviction is against the weight of the evidence. This Court disagrees.

{¶17} Field makes several arguments in support of her second assignment of error. Although Field acknowledges that she did not raise an entrapment defense at trial, she contends that the City effectively waived the right to charge her when Officer Wovna led Field to believe that she had a week to fill out her portion of the accident report. Field further contends that the manifest weight of the evidence does not support the conclusion that the collision resulted in damages to either vehicle.

{¶18} A conviction that is supported by sufficient evidence may still be found to be against the manifest weight of the evidence. *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997); *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, ¶ 12.

> In determining whether a criminal conviction is against the manifest weight of the evidence, an appellate court must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine whether, in resolving conflicts in the evidence, the trier of fact 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. Otten, 33 Ohio App.3d 339, 340 (9th Dist.1986).

{¶19} "When a court of appeals reverses a judgment of a trial court on the basis that the verdict is against the weight of the evidence, the appellate court sits as a 'thirteenth juror' and disagrees with the fact[-]finder's resolution of the conflicting testimony." *Thompkins* at 387, quoting *Tibbs v. Florida*, 457 U.S. 31, 42 (1982). An appellate court should exercise the power to reverse a judgment as against the manifest weight of the evidence only in exceptional cases. *Otten* at 340.

{¶20} Field's argument that she would not have violated the statute but for Officer Wovna's statements during their telephone conversation is not supported by the record. The accident in this case occurred at approximately 11:00 a.m. on April 12, 2019. K.C. arrived at the police station at approximately 11:30 a.m. that same day. The following day, Officer Wovna went to an apartment where Field was known to have resided, only to find that she was not there. Officer Wovna was ultimately able to make telephone contact with Field at approximately 3:45 p.m. on April 13, 2019. Accordingly, this conversation occurred after the 24-hour reporting window set forth in R.C. 4549.021(A)(2) had expired. Moreover, Officer Wovna advised Field during their phone call that she would be cited for failure to stop after a nonpublic road accident. Officer Wovna explained to Field that she needed to make a statement because K.C. was requesting a

report. Upon learning that Field was in the process of moving, Officer Wovna indicated that she could come into the police station a week later to fill out the accident report. Contrary to Field's argument on appeal, however, the weight of the evidence does not support the conclusion that Officer Wovna misled Field regarding the requirements of R.C. 4549.021(A).

{¶21} Field's contention that the weight of the evidence supports the conclusion that both vehicles were undamaged as a result of the accident is also without merit. Field stresses that Officer Wovna was not an eyewitness to the collision, meaning that any evidence regarding damage stemmed from K.C.'s account, which Field argues was imprecise and unpersuasive. The trier of fact is free to believe all, part, or none of the testimony of each witness. *State v. Darr*, 9th Dist. Medina No. 17CA0006-M, 2018-Ohio-2548, ¶ 32. As noted above, K.C. testified that she heard a crunching sound when she collided with Field. K.C. further observed that Field's bumper was "crunched in[.]" "[T]his Court will not overturn the trial court's verdict on a manifest weight challenge simply because the trier of fact chose to believe the [City's] witness[.]" *See State v. Crowe*, 9th Dist. Medina No. 04CA0098-M, 2005-Ohio-4082, ¶ 22. In light of K.C.'s testimony regarding the damage to Field's vehicle, we cannot say that the trial court clearly lost its way.

{¶22} The second assignment of error is overruled.

III.

{¶23} Field's assignments of error are overruled. The judgment of the Medina Municipal Court is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Medina Municipal Court, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

DONNA J. CARR
FOR THE COURT

CALLAHAN, P. J.
TEODOSIO, J.
CONCUR.

APPEARANCES:

MICHAEL T. CONWAY, Attorney at Law, for Appellant.

GREGORY A. HUBER, Prosecuting Attorney, for Appellee.