

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 11AP-1108
	:	(M.C. No. 2011 TRD 139778)
Lori J. Blacksten,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

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D E C I S I O N

Rendered on August 21, 2012

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*Richard C. Pfeiffer, Jr., City Attorney, Lara N. Baker, City Prosecutor, Melanie R. Tobias and Jeffrey T. Stavroff, for appellee.*

*Lori J. Blacksten, pro se.*

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APPEAL from the Franklin County Municipal Court

TYACK, J.

{¶ 1} Lori J. Blacksten is appealing from her convictions on charges of violating R.C. 4549.02(A), "stopping after accident; exchange of identity information and vehicle registration," and of violating R.C. 4511.39, "Turn and stop signals" (unsafe lane change).

She has filed a brief, which, under the title of "Assignment of Errors," reads:

Permitting Highway Patrol Raul Melo to give expert testimony on accident recreation or that it is possible I had body work done on my van before he looked at it and took pictures when he was not qualified as an expert. My attorney asked for him to be qualified and the Court's response was they did not need to go that far. Highway Patrol Raul Melo testified it was possible that I could have backed into (on 270) the Acura

pushed him back and to the left without having any damage to my van or implied that I had the damage fixed. I have a 2005 blue Chevy Venture van and if I had it fixed, it would be very obvious if there were new parts or any repairs. Not to mention, it is very difficult for me to understand how I (or anyone for that matter) could back up on 270 and hook onto someone's vehicle while driving the posted speed limit. I truly wish the pictures of my van with no damage had been shown to the jury and that my attorney would have allowed me to get an expert to give an opinion that no work had been done on my van. I am just putting it all out there to be considered as I do not know what is permitted at this point so I assume if it is not permitted, we can weed through what is not needed or allowed.

Assistant Prosecutor Deana Overking commented that my husband, Brent Blacksten, is in the body shop collision repair line of work. I asked my attorney to object to that as my husband is actual [sic] a truck driver and does some diesel mechanic work. My attorney did object and there was a sidebar, but this was never made right. She also referred to Ed Claeys as a mechanic when in fact he owns a collision repair shop on Hamilton Rd. and he testified that cars are his business and that is why he had noticed the black Acura in he [sic] first place. Me, on the other hand, could not have identified either the truck Ed was in or the car of Mr. Jones. It wasn't until the trial that I found out Ed was not only the witness, but was also the truck that was in front of me when he and I passed the slow moving car and then it was turned around that I was the one tailgating the slow car. In fact, the truck was not even tailgating. We both just went out around the slow car calmly with no incident. I paid no attention to either driver. I clocked out of work that evening at 6:15 PM and traffic really was not super heavy at least in my opinion as compared to leaving at 5:00 PM. If I cant leave work by 4:30, I generally do not attempt to leave until after 6:00 PM. It makes for a pleasant hour drive home.

The above errors improperly led the jury to trust the Highway Patrol in his uniform that he was an expert qualified to visually inspect a vehicle and know whether the vehicle had been in an accident and/or had any damages repaired.

{¶ 2} As can be discerned from the above narrative, Blacksten was convicted by a jury after several witnesses testified. The State of Ohio called two civilian witnesses,

Edward Claeys and Stephen Jones. The State of Ohio also called as a witness the Ohio State Highway Patrol ("OSHP") trooper who cited Blacksten.

{¶ 3} Stephen Jones testified that he was driving eastbound on I-270 in the northern part of Franklin County when a minivan pulled in front of him repeatedly and hit the brakes. The van kept cutting in front of him and on the last occasion clipped his Acura. In attempting to avoid a more serious collision, Jones swerved and lost control, causing his Acura to hit a concrete divider and do serious damage to his vehicle. Jones got a good look at the driver of the minivan and identified Lori Blacksten as being the driver. Blacksten drove away after Jones collided with the concrete divider.

{¶ 4} Edward Claeys was driving in the area and testified that the van pulled in front of Jones' Acura repeatedly and hit the brakes. The last time Jones lost control. When the van did not stop, Claeys pursued it and told Blacksten that she had caused a wreck and should go back to the scene of the wreck. Blacksten drove away. Claeys got the van's license plate number and provided it to the OSHP.

{¶ 5} OSHP Sergeant Raul Melo investigated the wreck involving Jones' Acura and testified as to the results of his investigation, including his interview of Blacksten several days after the wreck.

{¶ 6} The defense called a police dispatcher for the Columbus Division of Police to identify a tape of a telephone call, apparently from Blacksten to the Columbus Division of Police. During the call, Blacksten was advised that a wreck had just been reported on I-270 in the area where she had just driven.

{¶ 7} The defense also called a work supervisor of Blacksten to testify about Blacksten's history of being honest.

{¶ 8} The defense called a second character witness, a co-worker named Andrea Watson. The co-worker apparently also talked to Blacksten on the date the events occurred which resulted in Blacksten being cited.

{¶ 9} The final defense witness was Blacksten testifying on her own behalf. She was driving home from work and proceeding eastbound on I-270 when she encountered Jones' vehicle and a pick-up truck. Her vehicle and the pick-up truck both pulled into the next lane to pass Jones' vehicle on the right. The two vehicles both pulled back into the left lane when Jones' vehicle was proceeding after they passed his vehicle on the right.

{¶ 10} A little later, Blacksten claimed she saw a vehicle driving fast in the right hand lane of I-270, which is four lanes in an eastbound direction at that point. This vehicle ended up being the Jones' vehicle. Blacksten claimed the driver made an obscene gesture at her. She denied doing the same and denied cutting in front of the vehicle and hitting the brakes repeatedly.

{¶ 11} Blacksten acknowledged calling the Columbus Division of Police and inquiring about whether a car had wrecked on I-270. She acknowledged being approached by a third driver who told her she had caused a wreck and admitted that she did not return to the place where Jones' wrecked car was located.

{¶ 12} The narrative "Assignment of Errors" briefly mentions a number of issues. We will likewise be brief in our review of them.

{¶ 13} OSHP Sergeant Raul Melo testified that the van being driven by Blacksten could have had scuff marks from Blacksten's clipping of Jones' vehicle buffed off or otherwise repaired during the several days between the time the wreck occurred and Blacksten coming to the patrol post to discuss the wreck of Jones' vehicle.

{¶ 14} The ability to buff out scratches and scuff marks is common knowledge among car owners and was certainly well known by an OSHP Sergeant who had spent years doing accident investigations. The trial court did not err in allowing OSHP Sergeant Raul Melo's testimony.

{¶ 15} Blacksten, as appellant, is responsible for the appellate record being complete. The transcript of the trial does not include opening or closing statements, so we cannot find any errors based upon opening statements and/or closing argument. The other matters set forth in her narrative could not have significantly affected the credibility of the witnesses for the prosecution of the defense. Therefore they could not constitute reversible error.

{¶ 16} After review of the record before us, we find no reversible error. Blacksten's assignments of error are overruled and the judgment of the Franklin County Municipal Court is affirmed.

*Judgment affirmed.*

BRYANT and CONNOR, JJ., concur.

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