

[Cite as *State v. Love*, 2011-Ohio-2053.]

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-100597
	:	TRIAL NO. C-10TRD-30281B
Plaintiff-Appellee,	:	
	:	<i>DECISION.</i>
vs.	:	
JAMEEKA N. LOVE,	:	
	:	
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: April 29, 2011

Joseph T. Deters, Hamilton County Prosecuting Attorney, and *Scott M. Heenan*,
Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Michael J. Trapp, for Defendant-Appellant.

Please note: This case has been removed from the accelerated calendar.

SYLVIA S. HENDON, Judge.

{¶1} Following a bench trial, defendant-appellant Jameeka Love was convicted of leaving the scene of an accident, pursuant to R.C. 4549.021. Love has appealed her conviction. She argues in three assignments of error that her conviction was not supported by sufficient evidence, that the trial court erred in denying her Crim.R. 29 motion for an acquittal, and that her conviction was against the manifest weight of the evidence.

{¶2} Because we find no merit to Love's assignments of error, we affirm the judgment of the trial court.

Love Strikes a Pedestrian

{¶3} The evidence presented to the trial court established that, on June 1, 2010, Love had stopped her vehicle at a traffic light as she waited to exit from the parking lot of a local store onto Hamilton Avenue. Carlos Watts attempted to jog across the street in front of Love's car. Watts was struck by Love's car, and he rolled off the hood of the vehicle. Love drove away without stopping after the collision. Dawnisha Gaston, a close family friend of Watts, was stopped at the same intersection and viewed the accident. Gaston followed Love and honked until she obtained Love's attention. Love informed Gaston that she had not stopped because Watts did not appear to be injured. Love then drove away.

{¶4} Gaston obtained Love's license-plate number, which she provided to Springfield Township Police Officer Louis Medecke. Officer Medecke unsuccessfully attempted to contact Love at her home. But Love called him later that evening after finding a business card that Officer Medecke had left. Officer Medecke returned to

Love's home, where Love informed him that Watts had bumped into her car while she was stopped. According to Love, Watts did not appear to be injured, so she had not stopped. Love maintained that she had not struck Watts, but rather that Watts had run into her car.

Standard of Review

{¶5} As we have stated, Love has raised the following assignments of error on appeal: that her conviction was not supported by sufficient evidence; that the trial court erred in denying her Crim.R. 29 motion for an acquittal; and that her conviction was against the manifest weight of the evidence. We address these assignments together.

{¶6} When analyzing the sufficiency of the evidence supporting a conviction, this court must determine “whether after viewing the probative evidence and inferences reasonably drawn therefrom in the light most favorable to the prosecution, any rational trier of fact could have found all the essential elements of the offense beyond a reasonable doubt.”¹ We use the same test to determine whether a trial court properly overruled a defendant's Crim.R. 29 motion for an acquittal.² But when reviewing the manifest weight of the evidence, we must review the record, weigh the evidence, and consider the credibility of the witnesses to determine whether, in convicting the defendant, the trial court lost its way and created a manifest miscarriage of justice.³

¹ *State v. Martin* (1983), 20 Ohio App.3d 172, 175, 485 N.E.2d 717.

² *State v. Jordan*, 167 Ohio App.3d 157, 2006-Ohio-2759, 854 N.E.2d 520, ¶49.

³ *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

A Required Stop

{¶7} R.C. 4549.021(A), titled “[s]topping after accident or collision involving injury to persons or property,” provides that “[i]n case of accident or collision resulting in injury or damage to persons or property upon any public or private property other than public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, shall stop, and, upon request of the person injured or damaged, or any other person, shall give that person the driver’s or operator’s name and address * * *.”

{¶8} R.C. 4549.021(A) contains an additional means of complying with the requirement that a driver stop after an accident or collision. The statute states that “[i]f the owner or person in charge of the damaged property is not furnished such information [the driver’s name and address], the driver of the motor vehicle involved in the accident or collision, within twenty-four hours after the accident or collision, shall forward to the police department of the city or village in which the accident or collision occurred * * * the same information required to be given to the owner or person in control of the damaged property * * *.”

{¶9} Love first argues that the state failed to demonstrate that Carlos Watts was injured in the collision as required by the statute. Notably, Love sped off immediately following the accident before ascertaining whether Watts had in fact been injured. Love now argues that, because Watts had continued to run down the street after the collision, she had not believed that he was injured.

{¶10} R.C. 4549.021 does not allow a motorist involved in an accident with a person to make a subjective determination as to whether the person struck was

injured. The statute requires a motorist to stop any time such an accident occurs. Then a determination can be made regarding injury suffered by the pedestrian, and, if necessary, the required information can be provided. Further, we conclude that the record before us contains sufficient evidence demonstrating that Watts was injured in this collision. Watts testified that he was struck by Love's vehicle and rolled across her hood. Officer Medecke, an accident reconstructionist, viewed an imprint on Love's hood where a person had clearly rolled off the car. Love's argument is without merit.

{¶11} Love additionally argues that she had complied with R.C. 4549.021 by reporting all the required information to the police within 24 hours of the accident. As we have stated, R.C. 4549.021 contains two means of compliance. A driver may stop immediately following an accident, and upon request by the person injured or the owner of the damaged property, provide all required information. Or if the required information is not furnished at the time of the collision, a motorist may contact the appropriate police department within 24 hours of the collision to provide the required information.⁴ But Love's argument that her contact with Officer Medecke put her in compliance with this statute is flawed. Based on the plain language of the statute, this provision allowing compliance by contacting police within 24 hours of the accident does not apply to injury to persons.

{¶12} The first paragraph of R.C. 4549.021(A) contains the general requirement that all motorists stop following an accident or collision "resulting in injury or damage to persons or property upon any public or private property." The second paragraph of R.C. 4549.021(A) contains the 24-hour provision, and it states

⁴ See *State v. Vaughn* (Nov. 8, 1995), 1st Dist. No. C-950144.

that “[i]f the owner or person in charge of the damaged property is not furnished such information, * * *” the motorist causing the collision shall provide the required information to the appropriate police department within 24 hours of the accident.

{¶13} The first paragraph’s reference to injury to persons was specifically omitted in the second paragraph’s discussion of compliance within 24 hours. In our view, such an omission was undoubtedly intentional and in line with public policy. Injuring a person is manifestly more serious and carries greater concern than causing damage to property. In cases of injury to persons, public policy dictates that a motorist stop and, when requested, provide the required information immediately.

{¶14} Because Love struck a pedestrian, she was required by R.C. 4549.021(A) to stop immediately following the accident. Her later contact with police within 24 hours of the accident was of no legal effect.

{¶15} Love next argues that the state failed to produce any evidence that the collision occurred on private property, and not on a public road or highway, as required by R.C. 4549.021(A). We disagree. The record indicates that Love struck Watts as she waited to exit from the parking lot of a private store. This was sufficient for the trial court to find that the accident had occurred on any public or private property other than a public road or highway.

{¶16} Last, Love argues that her testimony was more credible than that offered by Watts, and that the trial court erred in disregarding her testimony that Watts had run into her vehicle. As the trier of fact, the trial court was in the best position to judge the credibility of the witnesses. It was free to find the testimony of Watts to be more credible than that offered by Love. And Watts’ testimony, if

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believed, clearly indicated that Love had failed to stop after striking him with her vehicle.

{¶17} Love's conviction under R.C. 4549.021 was supported by sufficient evidence and was not against the manifest weight of the evidence. Nor did the trial court err in overruling Love's Crim.R. 29 motion for an acquittal. The first, second, and third assignments of error are overruled. The judgment of the trial court is, accordingly, affirmed.

Judgment affirmed.

SUNDERMANN, P.J., and CUNNINGHAM, J., concur.

Please Note:

The court has recorded its own entry on the date of the release of this decision.