[Cite as *State v. Norwood*, 2004-Ohio-2600.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

LAKE COUNTY, OHIO

STATE OF OHIO,	:	**O P I N I O N**
Plaintiff-Appellee,	:	**CASE NO. 2003-L-038**
- vs -	:	
LEONARD R. NORWOOD,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Mentor Municipal Court, Case No. 02 CRB 1423.

Judgment: Affirmed.

Ron M. Graham, Mentor City Prosecutor, 8500 Civic Center Boulevard, Mentor, OH 44060 (For Plaintiff-Appellee).

R. Paul LaPlante, Lake County Public Defender, and *Vanessa R. Clapp*, Assistant Public Defender, 125 East Erie Street, Painesville, OH 44077 (For Defendant-Appellant).

JUDITH A. CHRISTLEY, J.

{¶1} This is an accelerated calendar appeal submitted on the briefs of the parties. Appellant, Leonard R. Norwood, appeals from a judgment of the Mentor Municipal Court finding him guilty of obstructing official business. For the reasons set forth below, we affirm the judgment of the Mentor Municipal Court.

{¶2} Appellant was charged with one count of obstructing official business, in violation of R.C. 2921.31. In a companion case, he was charged with one count of driving under the influence, in violation of R.C. 4511.19(A)(1), and one count of failure to control, in violation of R.C. 4511.20.2.

{¶3} On October 11, 2002, a vehicle was reported off the right side of the road at the exit ramp of State Route 2 and Heisley Road in Mentor, Ohio. When Mentor Police Officer Raymond O'Brien ("O'Brien") arrived at the location, he found a car in a ditch fifty feet off the road. He also saw a man, later identified as appellant, standing about two hundred feet away, by a payphone at a nearby BP gas station.

{¶4} O'Brien testified that appellant was "leaning very heavily against the pay phone" and "had a strong odor of an alcoholic beverage."[1] O'Brien asked appellant if he knew anything about the accident, and appellant replied that there was no accident. When asked how he got to his location, appellant stated that he walked from Club 203 in Grand River, which was approximately two or three miles away.

{¶5} O'Brien asked appellant for his identification, and appellant provided his I.D. but had "quite a bit of difficulty" getting it out of his wallet, according to O'Brien. The vehicle identification number of the vehicle in the ditch came back as registered to appellant.

{¶6} O'Brien then questioned appellant as to how his vehicle got into the ditch, and appellant said he did not know. This time, appellant told O'Brien that his friends from Cleveland dropped him off at the location so he could call his brother, he was

1. O'Brien testified that, at the location, there was not a suitable place to conduct field sobriety tests. These tests were offered in the jail, but appellant refused. O'Brien testified that had appellant taken a Breathalyzer, he would have tested "well above a .2."

never in the vehicle, and he did not know how his car got into the ditch. Appellant then, again, denied ever being in the vehicle.

{¶7} O'Brien placed appellant under arrest. Before O'Brien handcuffed appellant, O'Brien asked him for the car keys, and appellant pulled the car keys out of his right front pocket.[2]

{¶8} Appellant appeared at his October 15, 2002 initial appearance and entered a plea of not guilty, which the municipal court accepted. Appellant was released three days later on a $750 personal recognizance bond.

{¶9} Following appellant's November 25, 2002 bench trial, appellant was convicted of obstructing official business but was acquitted of driving under the influence and failure to control.[3] Appellant was sentenced on January 24, 2003 to ninety days in jail and fined $500. Appellant had not paid his fine but had served three days of incarceration when the remainder of his sentence was stayed pending appeal.

{¶10} From this judgment, appellant sets forth a lone assignment of error:

{¶11} "[1.] The trial court erred to the prejudice of the defendant-appellant when it returned a verdict of guilty against the manifest weight of the evidence."

{¶12} "When considering a claim that the judgment is against the manifest weight of the evidence, an appellate court must review the entire record, weigh both the evidence and all reasonable inferences, consider the credibility of witnesses and determine whether in resolving conflicts, the trier of fact clearly lost its way and created

2. O'Brien confirmed that these keys "matched" the car in the ditch.

3. Appellant was acquitted of driving under the influence and failure to control because, according to the trial judge, the state failed to prove beyond a reasonable doubt that appellant was driving the vehicle hen it ended up in the ditch. We will refrain from commenting on the court's inability to find him guilty of driving under the influence and failure to control particularly when the car keys were in appellant's pocket.

such a manifest miscarriage of justice that a new trial must be ordered." *State v. Warfield*, 11th Dist. No. 2001-T-0079, 2003-Ohio-2366, at ¶9. See, also, *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52.' Further, "'[t]he discretionary power to grant a new trial should be exercised only in the exceptional case where the evidence weighs heavily against the conviction.'" *Warfield* at ¶10, quoting *State v. Martin* (1983), 20 Ohio App.3d 172, 175.

{¶13} The test for reviewing a sufficiency of evidence challenge is "whether after viewing the probative evidence and the inference drawn therefrom in the light most favorable to the prosecution, any rational trier of fact could have found all of the elements of the offense beyond a reasonable doubt." (Citations omitted.) *State v. Wright*, 11th Dist. No. 2002-P-0128, 2002-Ohio-1432, 2002 Ohio App. LEXIS 1497, at 5. See, also, *State v. Williams* (1996), 74 Ohio St.3d 569, 577. "An appellate court shall not reverse a verdict if there exists sufficient evidence in which a trier of fact could reasonably find that all elements of the charged offense were proven beyond a reasonable doubt." *Wright* at 6.

{¶14} In appellant's assignment of error, he argues that the trial court lost its way by finding him guilty of obstructing official business. Specifically, appellant asserts that the state failed to prove that appellant, who was intoxicated and gave confusing, conflicting answers to police questions, had the purpose to prevent, obstruct, or delay the police officer's performance of his duties or that the officer's duties were actually impeded. We disagree.

{¶15} R.C. 2921.31 defines obstructing official business and provides:

{¶16} "No person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official's capacity, shall do any act which hampers or impedes a public official in the performance of the public official's lawful duties."

{¶17} Further, R.C. 2901.22(A) defines purposeful as:

{¶18} "A person acts purposely when it is his specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of when the offender intends to accomplish thereby, it is his specific intention to engage in conduct of that nature."

{¶19} On the record, at appellant's November 25, 2002 bench trial, the trial judge stated, "*** I believe that there's more than enough evidence to show that there was a prevention or obstruction or delay of the performance of this officer in trying to find out what happened, and in his official capacity, and that it did hamper and impede the officer in the performance of his lawful duties. *** So I will show that there is a finding of – a finding of guilty there." The judge did not find on the record that appellant acted purposefully.

{¶20} Despite this, a trier of fact could easily infer from the evidence and find, beyond a reasonable doubt, that appellant purposefully obstructed O'Brien's investigation. The record reveals that appellant gave confusing, conflicting answers to O'Brien's questions. Importantly, appellant repeatedly denied that he was ever in the vehicle, stated that he did not know how it got into the ditch, and then pulled the

vehicle's keys right out of his own pocket. Accordingly, the municipal court's judgment is not against the manifest weight of the evidence.

{¶21} Based on the foregoing analysis, appellant's sole assignment of error is not well taken. We affirm the judgment of the Mentor Municipal Court.

Judgment affirmed.

DONALD R. FORD, P.J., and WILLIAM M. O'NEILL, J., concur.