[Cite as *State v. Brannon*, 2015-Ohio-1488.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

CLINTON COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. CA2014-09-012
	:	O P I N I O N
- vs -		4/20/2015
	:	
DOUGLAS D. BRANNON,	:	
Defendant-Appellant.	:	

CRIMINAL APPEAL FROM CLINTON COUNTY MUNICIPAL COURT
Case No. 1201295A-H

Laura Railing Gibson, Wilmington City Prosecutor, 69 N. South Street, Wilmington, Ohio 45177, for plaintiff-appellee

Brannon & Associates, Matthew C. Schultz, 130 West Second Street, Suite 900, Dayton, Ohio 45402, for defendant-appellant

HENDRICKSON, J.

{¶ 1} Defendant-appellant, Douglas Brannon, appeals from his conviction in the Clinton County Municipal Court on eight counts of violating an order of the Division of Wildlife in violation of R.C. 1531.02. For the reasons detailed below, we affirm.

{¶ 2} Appellant is a partial owner of Arrowhead Pheasant Club, LLC, a bird shooting preserve in Wilmington, Ohio. As part of its business, Arrowhead raises fowl, including

pheasant, chukar, guinea fowl, and quail. In early 2012, Arrowhead began experiencing problems with coyotes coming onto its property and disturbing hunts and killing fowl. Arrowhead employees initially attempted to correct the problem by shooting any coyote found on the property. However, when that method ultimately proved ineffective, appellant researched and eventually adopted an alternative measure to erect several snares on the wooded area of the approximately 196-acre property.

{¶ 3} On March 21, 2012, Mike Gries, a neighboring property owner, discovered that his dog had strayed onto the Arrowhead property, gotten caught in a snare, and died. Gries contacted authorities who dispatched Ohio Division of Wildlife Officer Eric Lamb to inspect the area. During the investigation, Officer Lamb entered the woods located on the Arrowhead property and observed several possible wildlife regulation violations, including untagged traps, dead animals left in traps, as well as a large pile of wings possibly used as flesh bait.

{¶ 4} On March 24, 2012, Officer Lamb returned to the Arrowhead property and observed 14 set snares, as well as six additional snares containing dead animals. All 20 of the snares were untagged. In addition, Officer Lamb stated that some of the snares were equipped with impermissible spring assists or lacked the required deer stops. After observing these violations, Officer Lamb set up a trail camera to discover who was responsible for the snares. The trail camera was placed in the woods on appellant's property overlooking two of the snares and programmed to take a photograph every three seconds. Two days later, Officer Lamb and Investigator Tunnell recovered the trail camera and found several photographs of appellant on the property and in the vicinity of the snares.

{¶ 5} Appellant was eventually charged with three counts of animal cruelty in violation of R.C. 959.13, a second-degree misdemeanor, and eight counts for violating wildlife

regulations in violation of R.C. 1531.02, a fourth-degree misdemeanor.[1] Appellant filed motions to suppress and a motion to dismiss, which the trial court denied. The matter then proceeded to a jury trial. The jury found appellant guilty on all eight wildlife regulation violations, but acquitted him of the animal cruelty charges. Appellant was sentenced to 5 days in jail, suspended, a $100 fine, and ordered to attend a trapping education course or perform community service. Appellant now appeals, raising five assignments of error for review. For ease of discussion, we address appellant's assignments of error out of order.

{¶ 6} Assignment of Error No. 1:

{¶ 7} THE TRIAL COURT ERRED BY FAILING TO GRANT APPELLANT'S MOTION TO DISMISS BASED ON THE FACT THAT PROPERTY OWNERS ARE NOT REQUIRED TO COMPLY WITH THE TAGGING AND TIME REQUIREMENTS OF OHIO ADMINISTRATIVE CODE SECTION 1501:31-15-09.

{¶ 8} In his first assignment of error, appellant argues the trial court erred in denying his motion to dismiss the charges. Appellant alleges that he is exempt from the tagging and time requirements set forth in OAC 1501:31-15-09 because he is the owner of the property and the snares were set only to protect his livestock from nuisance animals.

{¶ 9} R.C. 1531.02 provides that the ownership of all wild animals in Ohio lies with the state. R.C. 1531.02 also states that no person may kill a wild animal except in the time, place, and manner in which the Revised Code or Division of Wildlife rules prescribe. Pursuant to the version of OAC 1501:31-15-09 in effect at the time:

> (C) It shall be unlawful for any person engaged in trapping to fail to visit and remove all wild animals from their traps once every twenty-four hours.

1. Specifically, of those eight alleged wildlife regulation violations, three counts were based on the failure to attach identification tags to the snares in violation of OAC 1501:31-15-09(R) and five counts were based on appellant's failure to visit or remove wild animals from the snares once every 24 hours in violation of 1501:31-15-09(C).

* * *

> (R) It shall be unlawful for any person to set, use, or maintain a trap or snare to take a wild animal, unless such trap or snare has attached thereto a durable waterproof tag bearing the name and mailing address or unique division of wildlife customer identification number of the user in English letters legible at all times, or which has the name and mailing address or unique division of wildlife customer identification number of the user stamped into such trap in English letters legible at all times.

{¶ 10} On appeal, appellant asserts that he is exempt from these regulations when trapping animals on his own property. Appellant relies upon "statutory, common, and constitutional law" for this statement of law. Specifically, appellant references *Fenner v. State*, 4th Dist. Pike No. 49, 1923 WL 2321 (Apr. 17, 1923) and *State v. Troyer*, 9th Dist. Wayne No. 97CA0015, 1997 WL 760954 (Nov. 19, 1997), as well as various provisions of the Ohio Revised Code relating to hunting licenses to support his claim. Appellant claims that enforcement of the relevant provisions in this case violates his right to protect his property under Section 1, Article I of the Ohio Constitution.

{¶ 11} Based on our review, we find appellant's assignment of error is without merit and his reliance on *Troyer*, *Fenner*, and the miscellaneous provisions of the Ohio Revised Code is misplaced. Appellant does not make a cognizable claim that his constitutional rights were violated based on the enforcement of the wildlife regulations.

{¶ 12} In *Fenner*, an opinion authored in 1923 by the Fourth District Court of Appeals, the court overruled a defendant's conviction based on its interpretation of G.C. 1308 and found that "a person can pursue and kill, at any time, except Sunday, fur-bearing animals which are injuring his property, or which have become a nuisance." *Fenner* at paragraph two of the syllabus.

{¶ 13} In *Troyer*, the defendant owned a business specializing in the raising of exotic birds. *Troyer*, 1997 WL 760954 at *1. As a result of predation on his property from horned

owls, a non-game bird, defendant erected several pole traps on his land. *Id.* Defendant was subsequently charged with attempting to catch or kill a non-game bird in violation of R.C. 1533.07, which provided:

> No person shall catch, kill, injure, pursue, or have in his possession * * * any bird other than a game bird * * *.
>
> * * * Hawks or owls causing damage to domestic animals or fowl may be killed by the owner of the domestic animal or fowl while such damage is occurring.

Id. The state argued that defendant was prohibited from erecting the pole traps because he was attempting to catch or kill the owls at a time when the owl was not causing any damage. *Id.* at *2. After a jury trial, defendant was found guilty. *Id.* at *1.

{¶ 14} On appeal, defendant challenged his convictions on the basis that the statute violated his constitutional right to protect his property under Section 1, Article I of the Ohio Constitution. *Id.* at *1-*2. In its decision reversing defendant's conviction, the court did not find R.C. 1533.07 unconstitutional in its entirety, but rather found that the phrase "while such damage is occurring" must be interpreted broadly to allow for a property owner to protect his property if he reasonably believes that force is necessary to prevent future damage. *Id.* at *6. As a result, the court found the lower court erred by improperly and unconstitutionally limiting the scope of R.C. 1533.07 and found "the statute must be interpreted broadly, allowing a property owner to use such force as is reasonably necessary, when reasonably necessary, to protect property from marauding owls." *Id.* at *8.

{¶ 15} The factual scenarios presented in *Troyer* and *Fenner* do not apply to the issue in the present case. First, relevant to *Fenner*, G.C. 1308 is no longer in effect. "R.C. 1531.02 now provides that the Division of Wildlife possesses rule-making authority regarding wild animals." *State v. Monteith*, 4th Dist. Scioto Nos. 03CA2871 and 03CA2876, 2003-Ohio-4392, ¶ 13. Moreover, appellant was not forbidden from protecting his property from wild

animals through the use of snares. OAC 1501:31-15-09 specifically provides that hunting and trapping of furbearing animals is permissible if done in accordance with "this rule and other rules in the Administrative Code or the Revised Code." The enforcement of such "time and manner" regulations is also applicable to a property owner's activities on his own land. *See Monteith* at ¶ 13 (deer hunting violations by property owner). In addition, while appellant notes that R.C. 1533.10 and R.C. 1533.111 exempt property owners from hunting license requirements and fur taker permits when hunting or trapping on their own property, we fail to see how those provisions should also be read to exempt appellant from the snaring regulations at issue in the present case.

{¶ 16} In sum, we find appellant's assignment of error is without merit. Appellant is required to comply with the regulations involved in the present action. The regulations did not prevent appellant from protecting his property from wild animals, or even prevent him from utilizing snares in the capture of wild animals. Instead, the regulations merely provided for acceptable means of use. The regulations requiring appropriate tagging and regular inspection of the snares were not overly burdensome or inappropriate and did not prevent appellant from protecting his property. The statute does not otherwise provide for any applicable "property owner exception" that would exempt appellant from following these regulations. Accordingly, we find the trial court did not err in denying appellant's motion to dismiss. As a result, appellant's first assignment of error is without merit and overruled.

{¶ 17} Assignment of Error No. 5:

{¶ 18} THE TRIAL COURT ERRED BY REFUSING TO GIVE THE JURY INSTRUCTION APPELLANT REQUESTED REGARDING PROTECTION OF LIVESTOCK.

{¶ 19} In his fifth assignment of error, appellant argues the trial court erred when it failed to provide the jury with instructions, which essentially reiterated his contention that a property owner cannot be liable for violating wildlife regulations if his actions were taken to

protect his property or livestock. Specifically, appellant requested the following instructions:

> Jury Instruction No. 18
>
> When a person is acting to protect his livestock or property he is not required to comply with the orders or regulations of the Ohio Department of Wildlife.
>
> Jury Instruction No. 20
>
> If you find that [appellant's] purpose in setting snare traps on his property was to protect his game birds from predators, then you must enter a verdict of Not Guilty as to the charges of violations of tagging and monitoring regulations made against him. If you so find, you should disregard Instructions 21 through 24 as inapplicable and return your verdict in favor of [appellant] as to charges of tagging and monitoring regulations.

{¶ 20} Jury instructions are matters which are left to the sound discretion of the trial court. *State v. Guster*, 66 Ohio St.2d 266, 271 (1981). This court reviews the trial court's decision for an abuse of discretion. *State v. Midwest Pride IV, Inc.*, 131 Ohio App. 3d 1, 15 (12th Dist.1998). "Ordinarily, requested instructions should be given if they are correct statements of the law, applicable to the facts in the case, and reasonable minds could reach the conclusion sought by the specific instruction." *State v. Carreiro*, 12th Dist. Butler No. CA2011-12-236, 2013-Ohio-1103, ¶ 14.

{¶ 21} After review, we find the trial court did not abuse its discretion by failing to include appellant's requested jury instructions. As noted in our resolution of appellant's first assignment of error, a property owner is required to comply with the relevant wildlife regulations and, therefore, appellant's proposed instructions are not correct statements of the law. *E.g., Monteith*, 2003-Ohio-4392 at ¶ 13. Accordingly, we find the trial court did not abuse its discretion by refusing to provide appellant's requested jury instructions. Appellant's fifth assignment of error is without merit and overruled.

{¶ 22} Assignment of Error No. 2:

{¶ 23} THE TRIAL COURT ERRED BY FAILING TO GRANT APPELLANT'S MOTION

TO SUPPRESS BASED ON THE INVESTIGATING OFFICERS' FAILURE TO OBTAIN A SEARCH WARRANT BEFORE INSTALLING A CAMERA ON APPELLANT'S PROPERTY.

{¶ 24} In his second assignment of error, appellant argues the trial court erred by denying his motion to suppress based on alleged Fourth Amendment violations. Appellate review of a ruling on a motion to suppress presents a mixed question of law and fact. *State v. Gray*, 12th Dist. Butler No. CA2011-09-176, 2012-Ohio-4769, ¶ 15. "When considering a motion to suppress, the trial court, as the trier of fact, is in the best position to weigh the evidence in order to resolve factual questions and evaluate witness credibility." *State v. Harsh*, 12th Dist. Madison No. CA2013-07-025, 2014-Ohio-251, ¶ 9.

{¶ 25} When reviewing the denial of a motion to suppress, this court is bound to accept the trial court's findings of fact if they are supported by competent, credible evidence. *Gray* at ¶ 15. "An appellate court, however, independently reviews the trial court's legal conclusions based on those facts and determines, without deference to the trial court's decision, whether as a matter of law, the facts satisfy the appropriate legal standard." *Harsh* at ¶ 10.

{¶ 26} The Fourth Amendment to the United States Constitution and Article I, Section 14 of the Ohio Constitution guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *State v. Acord*, 12th Dist. Fayette No. CA2009-01-001, 2009-Ohio-4263, ¶ 12. This means that the State is prohibited from making unreasonable, warrantless intrusions into areas where people have legitimate expectations of privacy. *State v. Renner*, 12th Dist. Clinton No. CA2002-08-033, 2003-Ohio-6550, ¶ 9.

{¶ 27} In *Oliver v. United States*, 466 U.S. 170, 104 S.Ct. 1735 (1984), the United States Supreme Court held that an expectation of privacy in "open fields" will not be deemed reasonable for Fourth Amendment purposes. *Id.* at 179; *State v. Jones*, 6th Dist. Lucas Nos.

L-00-1231, L-00-1232, and L-00-1233, 2003-Ohio-219, ¶ 85 ("[t]here is no recognized privacy expectation in an open field outside a residence"). Accordingly, "an individual may not legitimately demand privacy for activities conducted out of doors in fields, except in the area immediately surrounding the home." *Id.* at 178.

{¶ 28} Following a hearing, the trial court denied appellant's motion to suppress, as wildlife officers are given authority to enter private lands pursuant to R.C. 1531.13 and R.C. 1531.14 and appellant's Fourth Amendment rights were not violated based on the open fields doctrine.[2]

{¶ 29} Based on our review, we find the trial court did not err in denying appellant's motion to suppress. Here, the subject property was a large commercial shooting preserve, which consisted of approximately 196 acres of fields and woods. The area of property that Officer Lamb and Investigator Tunnell entered did not include any residence, or indeed, any semblance of a constitutionally protected area. The testimony and photographic evidence presented plainly supports a finding that these were woods located on appellant's property. This finding is true even if appellant alleged that he placed a "no trespassing" sign on the property. *Oliver*, 466 U.S. at 177 (entering private property with "No Trespassing" signs to observe marijuana plants in an "open field"); *United States v. Elkins*, 300 F.3d 638, 654 (6th Cir.2002) ("the presence of a no-trespassing sign cannot confer [protected] status on an area that otherwise lacks it"). As a result, the trial court correctly found the woods that Officer Lamb and Investigator Tunnell entered was an "open field" and not entitled to Fourth Amendment protection.

{¶ 30} Appellant attempts to distinguish the facts of this case and relies on the United

2. We note that we are reviewing appellant's assignment of error as a constitutional challenge, as "neither R.C. 1531.14, which authorizes employees of the division of wildlife to access private property during a lawful investigation, nor any common law privilege of law enforcement officers to enter on private land while performing their official duties, can override the constraints of the Fourth Amendment." *State v. Bradford*, 4th Dist. Adams No. 09CA880, 2010-Ohio-1784, ¶ 37.

States Supreme Court's holding in *United States v. Jones*, __ U.S. __, 132 S.Ct. 945 (2012), to argue that the placement of the trail camera subjects this case to additional scrutiny based on the physical intrusion into the area, as the trail camera "is equivalent to having an officer present on the property for forty-eight hours."

{¶ 31} In *Jones*, the United States Supreme Court held that the government's attachment of a GPS tracking device to a vehicle and its subsequent use of that device to monitor the vehicle's movements on public streets, constitutes a "search," for purposes of the Fourth Amendment. *Id.* at 949. However, contrary to appellant's assertion, *Jones* does not alter our analysis, as that case involved a situation in which the state intruded on a constitutionally protected area in the placement of the GPS device. Here, the area that the officers entered was an open field, which was not a constitutionally protected area within the meaning of the Fourth Amendment. In fact, this point was addressed by the plurality in *Jones*, which noted:

> Finally, the Government's position gains little support from our conclusion in *Oliver v. United States*, 466 U.S. 170, 104 S.Ct. 1735, 80 L.Ed.2d 214 (1984), that officers' information-gathering intrusion on an "open field" did not constitute a Fourth Amendment search even though it was a trespass at common law. Quite simply, an open field, unlike the curtilage of a home, is not one of those protected areas enumerated in the Fourth Amendment. The Government's physical intrusion on such an area—unlike its intrusion on the "effect" at issue here—is of no Fourth Amendment significance.

Id. at 953. (Citations omitted.)

{¶ 32} After review, we find no error in the trial court's ruling. We agree with the trial court that appellant had no reasonable expectation of privacy in the woods that Officer Lamb and Investigator Tunnell entered, as the area was an "open field." Since appellant had no legitimate expectation of privacy, Officer Lamb and Investigator Tunnell were free to use the trail camera to capture what any passerby would have been able to observe. *State v. Henry*,

7th Dist. Jefferson No. 01JE30, 2002-Ohio-7180, ¶ 40 ("[i]t has been held that the police may record what they normally view with the naked eye"); *United States v. Vankesteren*, 553 F.3d 286 (4th Cir.2009) ("[t]hat the agents chose to use a more resource-efficient surveillance method does not change our Fourth Amendment analysis"). As a result, the placement of the trail camera on the property did not amount to a Fourth Amendment violation under *Jones*. Accordingly, we find the trial court did not err in denying appellant's motion to suppress. Therefore, appellant's second assignment of error is without merit and overruled.

{¶ 33} Assignment of Error No. 3:

{¶ 34} THE TRIAL COURT ERRED BY FAILING TO GRANT APPELLANT'S MOTION TO SUPPRESS BASED ON THE SCIENTIFIC RELIABILITY OF THE CAMERA INSTALLED ON APPELLANT'S PROPERTY.

{¶ 35} In his third assignment of error, appellant argues the trial court erred when it admitted the photographs taken from the trail camera into evidence. As previously noted, appellant was photographed by the trail camera set up by Officer Lamb. Officer Lamb testified that he placed the trail camera on appellant's property at approximately 9:00 AM on March 24, 2012. The time stamp at the bottom of the photographs indicated that appellant did not subsequently visit the snares until 11:17 AM on March 25, 2012, which is later than the required 24 hours as set forth in OAC 1501:31-15-09(C). Appellant claims that it was error to admit this evidence as there was insufficient evidence to show that the date and time stamps contained on the photographs were reliable.

{¶ 36} In general, we will not reverse a trial court's decision regarding the admission of evidence absent an abuse of discretion. *State v. Lamb*, 12th Dist. Butler Nos. CA2002-07-171 and CA2002-08-192, 2003-Ohio-3870, ¶ 59. However, when a party fails to object to the issue now appealed, we review for plain error. *State v. Dougherty*, 12th Dist. Preble No. CA2013-12-014, 2014-Ohio-4760, ¶ 53. Plain error exists where there is an obvious

deviation from a legal rule which affected the defendant's substantial rights, or influenced the outcome of the proceeding. *State v. Sheldon*, 12th Dist. Brown No. CA2013-12-018, 2014-Ohio-5488, ¶ 30. Under a plain error analysis, a reviewing court will not reverse a conviction based on a trial court's instruction "unless, but for the error, the outcome of the trial clearly would have been otherwise." *Dougherty* at ¶ 53.

{¶ 37} "The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." *State v. Freeze*, 12th Dist. Butler No. CA2011-11-209, 2012-Ohio-5840, ¶ 65. The "threshold requirement for authentication of evidence is low and does not require conclusive proof of authenticity." *Id*. "Instead, the state only needs to demonstrate a 'reasonable likelihood' that the evidence is authentic." *State v. Scott*, 12th Dist. Warren No. CA2012-06-052, 2013-Ohio-2866, ¶ 35.

{¶ 38} Photographic and video evidence is generally authenticated in two ways. *Freeze* at ¶ 66. A person with knowledge to state that the photograph represents a fair and accurate depiction of the actual item at the time the picture was taken may authenticate the evidence. *Id.* In authenticating evidence through this method, there is no need to call the witness who took the photographs as long as a witness with knowledge can testify that the photograph is a fair and accurate depiction. *Id.*

{¶ 39} An additional way to authenticate photographic evidence is under the "silent witness" theory. *Freeze* at ¶ 67. "Under the silent witness theory, the photographic evidence is a 'silent witness' which speaks for itself, and is substantive evidence of what it portrays independent of a sponsoring witness." *Midland Steel Prods. Co. v. U.A.W. Local 486*, 61 Ohio St.3d 121, 130 (1991). Therefore, photographic evidence may be admitted upon a sufficient showing of the reliability of the process or system that produced the evidence. *Freeze* at ¶ 67. Expert witness testimony is not required to demonstrate reliability. *Id.*

{¶ 40} In the present case, appellant filed a "motion to suppress" the photographs taken from the trail camera.[3] Appellant argues that evidence from the trail camera should be excluded because "there is no evidence of [the trail camera's] reliability as a timing device." Appellant cites the United States Supreme Court's decision in *Daubert v. Merrill Dow Pharmaceuticals*, 509 U.S. 579, 113 S.Ct. 2786 (1993), a case involving the use of the expert testimony under Rule 702 of the Federal Rules of Evidence, as support for his position.

{¶ 41} We find appellant's arguments to be misplaced. In *Freeze*, this court found that video surveillance footage and photographs containing a time and date stamp were admissible where there was testimony that the video and photographs were accurate representations of what he originally viewed and, to his knowledge, the time and date stamp at the bottom of the video and still photographs was true and accurate. *Freeze*, 2012-Ohio-5840 at ¶ 70.

{¶ 42} Based on our review of the evidence, we find the trial court did not err in admitting the photographs taken by the trail camera. In the present case, Officer Lamb testified that he placed the trail camera on the property and retrieved it approximately 48 hours later. Officer Lamb also testified that when he retrieved the camera, he found that the time displayed on his cellular telephone and the time displayed on the trail camera was consistent. In addition, Officer Lamb testified that the photographs provided a true and accurate depiction of the area and the content of the images had not been altered.

{¶ 43} Moreover, even if we were to find error, it would not amount to plain error.

3. While appellant titled his motion as a "motion to suppress," in reality, appellant's motion was more akin to a motion in limine. The purpose and effect of a motion to suppress and a motion in limine are distinct. *State v. Miller*, 11th Dist. Portage No. 2012-P-0032, 2012-Ohio-5585, ¶ 14. A motion to suppress is the proper vehicle for raising constitutional challenges. *Id.* To the contrary, a motion in limine is a tentative, interlocutory, precautionary ruling by the trial court reflecting its anticipatory treatment of the evidentiary issue. *State v. Sheldon*, 12th Dist. Brown No. CA2013-12-018, 2014-Ohio-5488, ¶ 29. A trial court's ruling on a motion in limine does not preserve the record on appeal. Instead, "any claimed error regarding a trial court's decision on a motion in limine must be preserved at trial by an objection, proffer, or ruling on the record[.]" *Id*.

Although the photographs do contain a time stamp, they also place appellant at the location of the two snares, which Investigator Tunnell testified was useful in determining the party responsible for setting the snares on the property. In addition, we also note that there was ample other evidence, as discussed below, to sustain the guilty verdict with respect to the trapping violations, including appellant's admissions that he did not check the snares every 24 hours or comply with the tagging requirements. Accordingly, we find the trial court did not commit plain error by admitting the photographs taken by the trail camera. Appellant's third assignment of error is without merit.

{¶ 44} Assignment of Error No. 4:

{¶ 45} THE TRIAL COURT ERRED BY FAILING TO GRANT APPELLANT'S MOTION FOR ACQUITTAL BASED ON INSUFFICIENT EVIDENCE AND THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶ 46} In his fourth assignment of error, appellant argues that his convictions are against the manifest weight of the evidence and based on insufficient evidence. "[W]hile a review of the sufficiency of the evidence and a review of the manifest weight of the evidence are separate and legally distinct concepts, a finding that a conviction is supported by the weight of the evidence will be dispositive of the issue of sufficiency." *State v. English*, 12th Dist. Butler No. CA2013-03-048, 2014-Ohio-441, ¶ 66. With that in mind, we first examine whether appellant's conviction is supported by the manifest weight of the evidence.

{¶ 47} A manifest weight challenge concerns the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. *State v. Hensley*, 12th Dist. Warren No. CA2014-01-011, 2014-Ohio-5012, ¶ 10. To determine whether a conviction is against the manifest weight of the evidence, the reviewing court must look at the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether in resolving the 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. Chasteen*, 12th Dist. Butler No. CA2013-12-223, 2014-Ohio-4622, ¶ 10. As a result, we will overturn a conviction due to the manifest weight of the evidence only in extraordinary circumstances when the evidence presented at trial weighs heavily in favor of acquittal. *Hensley* at ¶ 10.

{¶ 48} Appellant was found guilty of eight counts of violating division of wildlife rules under R.C. 1531.02, which provides:

> A person doing anything prohibited or neglecting to do anything required by this chapter or Chapter 1533. of the Revised Code or contrary to any division rule violates this section. A person who counsels, aids, shields, or harbors an offender under those chapters or any division rule, or who knowingly shares in the proceeds of such a violation, or receives or possesses any wild animal in violation of the Revised Code or division rule, violates this section.

{¶ 49} As previously noted, the specific violations can be found in OAC 1501:31-15-09 (C) and (R), which stated:

> (C) It shall be unlawful for any person engaged in trapping to fail to visit and remove all wild animals from their traps once every twenty-four hours.
>
> * * *
>
> (R) It shall be unlawful for any person to set, use, or maintain a trap or snare to take a wild animal, unless such trap or snare has attached thereto a durable waterproof tag bearing the name and mailing address or unique division of wildlife customer identification number of the user in English letters legible at all times, or which has the name and mailing address or unique division of wildlife customer identification number of the user stamped into such trap in English letters legible at all times.

{¶ 50} In the present case, the state presented the testimony of Officer Lamb. Officer Lamb testified that he entered appellant's property to investigate allegations of trapping violations and observed 14 snares set on the property and an additional six snares set on the property that contained dead animals, including: two dogs, two deer, a fox, and a coyote.

Officer Lamb testified that none of the snares had a tag, as required by the department of wildlife regulations. Furthermore, with respect to OAC 1501:31-15-09 (R), Officer Lamb testified that appellant failed to visit the two snares within 24 hours, as captured by the trail camera. In addition, Officer Lamb also testified that during his several day investigation, he encountered several dead animals caught in snares that were not subsequently removed within 24 hours.

{¶ 51} The state also called Investigator Tunnell who testified that he observed similar wildlife violations, including the failure to remove animals from the snares within 24 hours. Investigator Tunnell stated that he took various photographs, which depicted a number of animals still in or near the snares. Photographs of the dead animals were entered into the record and showed various animals with blackened and rotting skin, indicating advanced stages of decomposition. Furthermore, Investigator Tunnell testified that none of the snares that he encountered on the property contained a tag consistent with department of wildlife regulations.

{¶ 52} Finally, appellant testified in his own defense and admitted that he placed the snares on his property. Appellant also acknowledged that the snares did not have the required tags, although he denied that such tags were required for property owners.[4] In addition, appellant stated that he did not visit the snares every 24 hours, but he claimed that he put other employees of Arrowhead in charge of this responsibility.

{¶ 53} While we acknowledge that appellant was faced with a difficult situation involving predation on his land and the necessity of keeping wild animals off the property to protect his business, he was still required to abide by the rules and regulations of the department of wildlife whether or not he understood that he was in violation of those rules.

4. However, as addressed in our resolution of appellant's first assignment of error, appellant's interpretation was mistaken as the pertinent wildlife regulations did apply to him.

State v. Shafei, 12th Dist. Nos. CA2013-11-196, CA2014-03-072, and CA2014-05-102, 2015-Ohio-645, ¶ 35 ("it is well-established that ignorance of the law is no excuse"). Here, the jury heard sufficient evidence to support a finding that appellant committed the wildlife violations set forth in OAC 1501:31-15-09 (C) and (R). Appellant's convictions are not against the manifest weight of the evidence. Accordingly, appellant's fourth assignment of error is without merit and overruled.

{¶ 54} Judgment affirmed.

M. POWELL, P.J., and S. POWELL, J., concur.