

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

PETER D. COSPER

Defendant-Appellant

JUDGES:

Hon. John W. Wise, P.J.

Hon. Julie A. Edwards, J.

Hon. John F. Boggins, J.

Case No. 03COA004

O P I N I O N

CHARACTER OF PROCEEDING:

Criminal appeal from the Ashland
Municipal Court, Case No.
02TRD10592-A

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

October 10, 2003

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

W. DAVID MONTAGUE
Assistant Director of Law
1213 East Main Street
Ashland, Ohio 44805

JOSEPH P. KEARNS, JR.
153 West Main Street
P.O. Box 345
Ashland, Ohio 44805

Boggins, J.

{¶1} Defendant-appellant Peter D. Cosper appeals his conviction entered by the Ashland Municipal Court on the charge of failure to yield at a red light in violation of R.C. §4511.13(C). Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE AND FACTS

{¶2} On November 8, 2002, State Trooper Clemens was dispatched to investigate a traffic accident at the intersection of U.S. Route 250 and County Road 1575 involving a passenger car and a semi tractor-trailer. (T. at 74, 79).

{¶3} Based upon the trooper's investigation which included the statements of the independent witnesses as well as the drivers and passengers of the vehicles, Trooper Clemens cited Appellant, the driver of the semi tractor-trailer with failure to yield at a red light.

{¶4} On January 7, 2003, following several pre-trials, the bench trial in this matter commenced.

{¶5} The State of Ohio presented several exhibits and called six witnesses in its case. The witnesses included the driver and front seat passenger of the motor vehicle involved in the accident, a driver of a motor vehicle which was directly behind this vehicle, a driver of a vehicle which pulled up directly behind Appellant's semi, a woman working at the truck stop near the intersection and Trooper Clemens.

{¶6} At the conclusion of the bench trial, the trial court found Defendant-Appellant guilty of the charge and ordered him to pay a fine of \$50.00 plus costs.

{¶7} It is from the trial court's verdict that appellant appeals, raising the following assignments of error:

ASSIGNMENTS OF ERROR

{¶8} “I. THE TRIAL COURT ERRED IN NOT PERMITTING COUNSEL TO INQUIRE OF STATE’S WITNESS AS TO THE EXTENT OF HER CONVERSATIONS OF THIRD PARTY, LEGAL COUNSEL.

{¶9} “II. THE TRIAL COURT ERRED WHEN IT FOUND APPELLANT GUILTY OF THE OFFENSE CHARGED, WHEN THAT FINDING WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

I.

{¶10} In his first assignment of error, Appellant argues the trial court erred in failing to permit defense counsel to inquire of a State’s witness as to the extent of her conversations with a third party. We disagree.

{¶11} More specifically, the trial court sustained the State’s objection as to defense counsel’s line of questioning of an independent witness to the accident concerning possible inducement by legal counsel for a potential civil suit to change her testimony.

{¶12} In support of his position, Appellant relies on *State v. Ferguson* (1983), 5 Ohio St.3d 160, which held that “[a]n accused is permitted to cross-examine the prosecuting witness as to the witness’ pending or contemplated civil action against the accused, in order to demonstrate any possible bias or prejudice arising out of the witness’ financial interest in the outcome of the prosecution.”

{¶13} We find the present case to be distinguishable from *Ferguson*, supra. In the present case, the witness in question has no pecuniary interest in the outcome of

this trial or a potential future civil suit. She was merely a witness to the automobile accident.

{¶14} Furthermore, counsel for Appellant had the opportunity to, and did in fact, inquire of this witness as to her reasons for giving him a somewhat different account of the events in his interview of her. (T. at 65-66).

{¶15} We therefore find that the trial court did not err in sustaining the objection as to such line of questioning.

{¶16} Even if we were to find that her testimony concerning her conversation with the Sandusky law firm attorney was possibly relevant, we find that the error by the trial court in sustaining an objection to same was harmless in that Appellant has failed to show how such affected the outcome of the trial.

{¶17} Appellant's first assignment of error is overruled.

II.

{¶18} In his second assignment of error, Appellant claims that the trial court's finding of guilt was against the manifest weight of the evidence. We disagree.

{¶19} The manifest weight of the evidence standard set forth in *C.E. Morris Co. v. Foley Construction* (1978), 54 Ohio St.2d 279, 376 N.E.2d 578. Accordingly, judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed as being against the manifest weight of the evidence.

{¶20} Upon review of the transcript in this matter, we find that trial court had before it competent, credible evidence in the form of eyewitness testimony to the accident as well as investigative evidence presented by the trooper.

{¶21} Appellant's second assignment of error is overruled.

{¶22} The decision of the Ashland Municipal Court is affirmed.

By: Boggins, J.

Wise, P.J. and

Edwards, J. concur