[Cite as *State v. Farmer*, 2015-Ohio-5434.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO Plaintiff-Appellee -vs- BRIAN J. FARMER Defendant-Appellant	JUDGES: Hon. Sheila G. Farmer, P. J. Hon. John W. Wise, J. Hon. Patricia A. Delaney, J. Case No. 15 CA 0044 O P I N I O N

CHARACTER OF PROCEEDING:	Criminal Appeal from the Municipal Court, Case No. 2015 CRB 00319
JUDGMENT:	Affirmed
DATE OF JUDGMENT ENTRY:	December 18, 2015

APPEARANCES:

For Plaintiff-Appellee	For Defendant-Appellant
J. MICHAEL KING ASSISTANT LAW DIRECTOR 40 West Main Street, 4th Floor Newark, Ohio 43055	BRIAN J. FARMER 3859 Martinsburg Road Gambier, Ohio 43022

Wise, J.

{¶1} Appellant Brian J. Farmer appeals his conviction and sentence on one count of Menacing by Stalking entered in the Licking County Municipal Court following a trial by jury.

{¶2} Plaintiff-Appellee is the State of Ohio.

STATEMENTS OF FACTS AND CASE

{¶3} The relevant facts and background are as follows.

{¶4} The victim in this case, Sarah Arruda, lived in Newark, Ohio, was 36 years old and employed as an art teacher by the Walnut Township School District, teaching art in the Junior and Senior High Schools. Ms. Arruda had been registered for several months on a dating service known as "Match.com." Several times between October and November, 2013, she was contacted through that service by Appellant Brian Farmer. According to her testimony, she was not interested in meeting him because he seemed "a little off," so she ignored his contacts. No copies of these contacts were kept by the victim. (T. at 77-79).

{¶5} On or about November 24, 2013, Appellant again made contact, offering his photo; wishing her a "Happy Birthday;" providing her with a personality "profile" of himself and a note stating he could not stop thinking of her, and how "difficult and stressful" it was for him to contact her. (T at 82-84).

{¶6} Between December 22nd and 25th, 2013, Ms. Arruda also received a book, mailed to her at her residence, titled "Please Understand Me." (T. at 84-85). These events caused her enough concern that she reported them to her parents. (T. at 86). The receipt of the book especially concerned her because it meant Appellant had her home

address, as well as her birth date. That information was not on Match.com. Although a person's age is shown, only by monitoring the site on a daily basis would anyone be able to figure out the exact birth date, i.e. when the age changed on the website. (T. at 82-86). Ms. Arruda was concerned enough that she blocked "farmer" and changed her user name at Match.com.

{¶7} Appellant then set up a new profile for himself; changed his user name; and changed his address from Gambier to Martinsburg. By making these changes, Appellant was able to avoid the Ms. Arruda's "block," and he again made contact with her again on February 8 and 9, 2014. This time, Ms. Arruda made an automatic response by hitting the "No Thanks" button. (T. at 87-89).

{¶8} Ms. Arruda testified that she was upset and concerned by Appellant's actions. Appellant, who was a complete stranger to her, informed her that he was "captivated" by her. He told her he sent the book to her, and that he was getting in shape for her, although he had not quite reached the "6-pack abs" yet. He further stated that once he had her birthdate, it only took 3 minutes to do an on-line search of the Licking County traffic tickets to find out who she was. He told her she should hide her identity better to make her harder to locate. Otherwise, as he put it," the psycho's will show up at your door." (T. at 91-93).

{¶9} Following the above events, Ms. Arruda contacted Match.corn and terminated her account. (T. at 93).

{¶10} On February 9, 2014, Appellant sent Ms. Arruda an e-mail acknowledging that he knew she was not interested and that it had been a "long shot," but he wished her happiness. She stated that at this time she believed Appellant would finally leave her

alone. (T. at 95-96). However, on February 18, 2014, Appellant made contact with her through an old e-mail account. In the e-mail he told her that he had been to a cave, which made him think of fairies. He also included 27 photographs. She stated that she had not updated that web site since 2011. (T. at 96).

{¶11} On April 2, 2014, Appellant again made contact with Ms. Arruda through the e-mail account at her place of employment, sending her a brochure about the "8th Annual Earth Day Festival." (T. at 96-98). Ms. Arruda testified she was worried and uneasy. Appellant's contacts had continued, and he now had her home address and date of birth. He had found an old web site and obtained an e-mail contact. He was now contacting her at school. She stated that she was afraid to stay by herself. She feared for her safety and that of the students.

{¶12} Ms. Arruda stated that she had lived at her residence for 7 years, and prior to the above incidents, she had never felt afraid. Based on her concerns and fear for her safety, her father installed a security system at her residence. (T. at 99-103).

{¶13} Ms. Arruda stated that she knew one of her neighbors, Kyle Boerstler, was a detective with the Licking County Sheriff's office, and she spoke with him about the situation. Det. Boerstler contacted Det. Craig Sweeney, who was with the Knox County Sheriff's Office. The latter made personal contact with Appellant, identified himself, and told him to cease all communication and contact with Sarah Arruda. (T. at 156-159).

{¶14} Appellant later e-mailed his objections to the Sheriff’s Office as to how he was treated, and even included an e-mail to be sent to the victim. Det. Feeney did not forward it. (T. at 164-165).

{¶15} For the rest of April through October, 2014, the victim received no further communication from Appellant. She thought the matter was finally over, and stated that she "started to let her guard down." (T. at 103-104).

{¶16} In November, 2014, a couple of days before her birthday, a package was delivered in the mail to her residence. "Happy Birthday Sarah" was on the front in glitter, and contained Appellant's return address. She wrote "Refused" in large black letters and sent it back, unopened. Ms. Arruda stated that she was scared and sick to her stomach as a result of this event.

{¶17} Following this incident, Ms. Arruda became afraid Appellant would show up at her residence (T. at 105-1 08). She spoke to her parents, boyfriend, neighbors, and Det. Boerstler.

{¶18} On December 25, 2014, a package was left on her doorstep. It was a basket wrapped in clear plastic with a red ribbon. It contained chocolates, Christmas card, Appellant’s business card, honey, crackers, pepper spray and a stun gun. (T. at 109). In the letter, Appellant also let the victim know she had "hurt his feelings" by the way she treated him, yet the way she responded only "peaks my curiosity about you even further." He referenced that she was "scared" to open the gift (unopened birthday box sent in the mail) and added that her "childish fears" are actually kind of "adorable". (T. at 112-116). He further informed her that the law allows him to contact her, and that if he waits for more than 30 days, it would not constitute a "pattern" of conduct. (T. at 116).

{¶19} Ms. Arruda was afraid of Appellant and became more upset and nervous. (T. at 111). She again contacted her parents. She also contacted her neighbors and a victim advocate. She also made a formal complaint to the Newark Police Department.

{¶20} A few days later, Ms. Arruda received a sympathy card for her grandfather's death, even though she had not been mentioned in the obituary. Although unsigned, the victim indicated that from the handwriting of her address, she could tell that it had been sent by Appellant. (T. at 119-121).

{¶21} The victim testified that Appellant's actions caused her to be afraid. She again alerted her family and neighbors. She was afraid to be out at night. If she was visiting neighbors, they would have to walk her home. Because of her emotional state and anxiety, she saw her doctor, who had to prescribe medication for her. (T. at 121-124).

{¶22} The victim's father also testified that his daughter was stressed and fearful. She had trouble sleeping, and because of Appellant's actions an audible alarm system and security camera had to be installed.

{¶23} On March 9, 2015, Defendant-Appellant was charged with Menacing by Stalking, in violation of R.C. 2903.211.

{¶24} On March 20, 2015, Appellant appeared at arraignment and entered a not guilty plea to said charge.

{¶25} On March 23, 2015, Appellant demanded a trial by jury, and requested discovery and a bill of particulars. Throughout the proceedings below, Appellant acted as his own counsel except for a brief period when he had retained the services of an attorney. The latter was discharged, and Appellant continued to represent himself. Various motions to dismiss and for other sanctions were filed.

{¶26} On June 4, 2015, an oral hearing on all pending motions was held. The trial court declined to dismiss the charge or impose any of the requested sanctions.

{¶27} On June 8, 2015, a jury trial commenced in this matter.

{¶28} The jury returned a verdict of guilty. The trial court sentenced Appellant to 180 days in jail, with 90 days suspended.

{¶29} Appellant requested that counsel be appointed to represent him on appeal, which was granted. A timely Notice of Appeal was filed and Appellant's sentence was stayed pending appeal. Appellant subsequently waived counsel and proceeded with the instant appeal Pro Se.

{¶30} Appellant now appeals, assigning the following errors for review:

ASSIGNMENTS OF ERROR

{¶31} "I. WHETHER THE TRIAL COURT ERRED IN DENYING PRETRIAL MOTIONS TO DISMISS.

{¶32} "II. WHETHER THE TRIAL COURT ERRED IN DENYING THE DEFENDANT CALLING WITNESSES TO TESTIFY.

{¶33} "III. WHETHER THE TRIAL COURT ERRED DENYING DEFENDANT'S RULE 29 MOTION FOR ACQUITTAL.

{¶34} "IV. WHETHER THE CONVICTION IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶35} "V. WHETHER THE SUMMONS/COMPLAINT WAS PROPERLY SWORN.

{¶36} "VI. WHETHER §2903.211 IS UNCONSTITUTIONAL AS APPLIED.

{¶37} "VII. WHETHER THE TRIAL COURT GAVE THE JURY PROPER INSTRUCTIONS.

{¶38} "VIII. WHETHER THE TRIAL COURT FOLLOWED SENTENCING GUIDELINES.

{¶39} "IX. WHETHER THE TRIAL COURT ERRED IN QUASHING A SUBPOENA TO SARAH ARRUDA.

{¶40} "X. WHETHER THE TRIAL COURT ERRED BY DENYING DEFENDANT'S MOTION TO SHOW CAUSE FOR IGNORED SUBPOENAES (SIC).

{¶41} "XI. WHETHER THE TRIAL COURT ERRED IN ALLOWING HEARSAY TESTIMONY FROM CRAIG FEENEY."

I.

{¶42} In his First Assignment of Error, Appellant claims that the trial court erred in denying his motions to dismiss. We disagree.

{¶43} In the trial court, Appellant filed pre-trial motions for lack of probable case, insufficient evidence, unsigned police report, improperly sworn complaint, and failure to provide him with a detailed Bill of Particulars.

{¶44} Upon review, this Court finds that the State provided Appellant with two Bills of Particular, which set forth the details forming the basis of the crime for which he was charged. Appellant does not argue how such Bills were insufficient or defective, nor does he argue that he was in any way prevented from preparing an adequate defense.

{¶45} We further find that Appellant failed to file a motion to suppress challenging probable cause in this case.

{¶46} Appellant’s challenge as to the sufficiency of the evidence was premature as the State had not yet had an opportunity to produce evidence at trial.

{¶47} As to Appellant’s challenge to the “unsigned” police report, Appellant cites no authority requiring such or any case law supporting dismissal of the charges based on same.

{¶48} We further find Appellant's argument as to a lack of jurisdiction/venue not well-taken as the victim in this case resided in Licking County.

{¶49} Appellant's argument as to the complaint in this matter being improperly sworn shall be addressed in Appellant's Assignments of Error 2 and 5.

{¶50} Based on the foregoing, we find Appellant's first assignment of error not well-taken. Appellant's First Assignment of Error is overruled.

II.

{¶51} In his Second Assignment of Error, Appellant claims that the trial court violated his due process rights by not allowing him to call Sarah Deutsch to testify. We disagree.

{¶52} In his brief before this Court, Appellant makes no argument nor cites any case law in support of this assignment.

{¶53} According to the State of Ohio, Sarah Deutsch is a Deputy Clerk for the Licking County Municipal Court. Appellant attempted to call her as a witness for the purpose of establishing that the complaint in this matter was not properly sworn by the Newark Police Department.

{¶54} In its brief, the State explains that Appellant's argument is based on his claim that because the police department is a "body politic", it is not possible for it to have appeared and sworn to the complaint.

{¶55} Upon review, this Court finds that the trial court did not err in not allowing Appellant to call Ms. Deutsch at trial, as she had no personal knowledge as TO any of the facts.

{¶56} This issue was raised and addressed at the oral hearing held on Appellant's various motions wherein Appellant acknowledged that the police department acts through its agents/

{¶57} Appellant's Second Assignment of Error is overruled.

III., IV.

{¶58} In his Third Assignment of Error, Appellant claims that the trial court erred in denying his Crim.R. 29 motion for acquittal. In his Fourth Assignment of Error, Appellant claims his conviction is against the manifest weight of the evidence. We disagree.

{¶59} An appellate court reviews a denial of a Crim.R. 29 motion for acquittal using the same standard used to review a sufficiency of the evidence claim. *See State v. Carter* (1995), 72 Ohio St.3d 545, 553, 651 N.E.2d 965, 1995–Ohio–104. Thus, "[t]he relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus.

{¶60} In determining whether a conviction is against the manifest weight of the evidence, the court of appeals functions as the "thirteenth juror," and after "reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be overturned and a new trial ordered." *State v. Thompkins, supra*, 78 Ohio St.3d at 387. Reversing a conviction as being against the manifest weight of the

evidence and ordering a new trial should be reserved for only the "exceptional case in which the evidence weighs heavily against the conviction." *Id.*

{¶61} Appellant herein was convicted of Menacing by Stalking, in violation of R.C. §2903.211, which provides:

{¶62} (A)(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

{¶63} R.C. §2903.211 further provides as follows:

{¶64} (D) As used in this section:

{¶65} (1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents.

{¶66} "R.C. 2903.211(D)(1) does not require that a pattern of conduct be proved by events from at least two different days. Arguably, a pattern of conduct could arise out of two or more events occurring on the same date, provided that there are sufficient intervals between them." *State v. Scruggs,* 136 Ohio App.3d 631, 634, 737 N.E.2d 574 (2000). One incident is insufficient to establish a "pattern of conduct." *Id.* The statute does not define the term "closely related in time," but case law suggests the trier of fact should consider the evidence in the context of all circumstances of the case. *Middletown v. Jones,* 167 Ohio App.3d 679, 856 N.E.2d 1003, 2006–Ohio–3465 (12th Dist.). Trial courts may take every action into consideration, even if some actions in isolation would not seem particularly threatening. *Guthrie v. Long,* 10th Dist. No. 04AP–913, 2005–Ohio–1541.

{¶67} R.C. 2903.211(D) further provides:

{¶68} (2) "Mental distress" means any of the following:

{¶69} (a) Any mental illness or condition that involves some temporary substantial incapacity;

{¶70} (b) Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

{¶71} Appellant argues Appellee failed to prove by a preponderance of the evidence that Appellant engaged in a pattern of conduct to knowingly cause Appellee to be in fear of physical harm or cause Appellee mental distress. Appellant specifically argues that there "is not one shred of evidence that [Appellant] intended to make Ms. Arruda fear that he might harm her, and [Appellant] could not knowingly have caused her reactions because he could not have foreseen the effects of his non-threatening communications." Appellant's brief at 21.

{¶72} In the case at bar, we find that Appellant's conviction was supported by sufficient evidence, and the jury's verdict was not against the manifest weight of the evidence.

{¶73} The jury herein found Appellant caused Ms. Arruda mental distress and fear of physical harm. Ms. Arruda testified to a pattern of conduct by Appellant which caused her mental distress and caused her to be fearful of Appellant. She testified that Appellant's actions caused her to install an alarm system and security cameras and to seek medical treatment for her anxiety.

{¶74} Based on the above and the detailed account of Appellant's actions as set forth in the statement of the facts, this Court finds sufficient evidence to support the jury's finding that appellant committed the crime of menacing by stalking and that the jury's verdict is not against the manifest weight of the evidence.

{¶75} Appellant's Third and Fourth Assignments of Error are overruled.

V.

{¶76} In his Fifth Assignment of Error, Appellant claims that the summons/complaint in this matter were not properly sworn. We disagree.

{¶77} Upon review of the complaint, this court finds that an officer with the Newark Police Department personally appeared and swore to same before a Deputy Clerk. We therefore find the complaint to be properly executed and filed.

{¶78} Appellant's Fifth Assignment of Error is overruled.

VI.

{¶79} In his Sixth Assignment of Error, Appellant claims that R.C. §2903.211 is unconstitutional as applied. We disagree.

{¶80} Specifically, Appellant's argues that R.C. §2903.211 restricts his right to free speech.

{¶81} In *State v. Szerlip,* Knox App. No. 01 CA05, 2002-Ohio-900, this Court considered a First Amendment claim in a menacing by stalking appeal. We noted in that case that Appellant's constitutional right to freedom of speech was not at issue; rather, a jury was asked to determine whether Appellant's pattern of conduct knowingly caused mental distress as defined under the statute. *Id.* at page 9. We concluded that Appellant's behavior was not protected by the First Amendment. *Id.*

{¶82} In the instant case, as in *Szerlip,* the jury was asked to determine whether Appellant's pattern of conduct knowingly caused the victim mental distress as defined under the statute. Appellant's right to free speech is not absolute, and he can be punished when his speech is threatening or interferes with the rights of others.

{¶83} Appellant's Sixth Assignment of Error is overruled.

VII.

{¶84} In his Seventh Assignment of Error, Appellant claims that the trial court erred in giving improper instructions to the jury. We disagree.

{¶85} Appellant herein argues that the trial court should have instructed the jury that a face-to face confrontation was an essential element of the crime of menacing by stalking and further "that without physical violence or threatening conduct there is no mental distress." Appellant's brief at 30.

{¶86} The giving of jury instructions is within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion. *Pettit v. Hughes,* 177 Ohio App.3d 344, 2008–Ohio–3780, 894 N.E.2d 738 (5th Dist). In order to find an abuse of discretion, we must determine that the trial court's decision was unreasonable, arbitrary, or unconscionable and not merely an error of law or judgment. *Blakemore v. Blakemore,* 5 Ohio St.3d 217, 450 N.E.2d 1140 (1983). Generally, "a trial court must fully and completely give the jury all instructions which are relevant and necessary for the jury to weigh evidence and discharge its duty as the fact finder." *State v. Comen,* 50 Ohio St.3d 206, 553 N.E.2d 640 (1990), paragraph two of the syllabus. Jury instructions must be reviewed as a whole. *State v. Coleman,* 37 Ohio St.3d 286, 525 N.E.2d 792 (1988).

Whether the jury instructions correctly state the law is a question of law, which we review de novo. *Murphy v. Carrollton Mfg. Co.,* 61 Ohio St.3d 585, 575 N.E.2d 828 (1991).

{¶87} Upon review, we find that the instructions provided to the jury in this case were proper and correctly stated the law.

{¶88} Appellant's Seventh Assignment of Error is overruled.

VIII.

{¶89} In his Eighth Assignment of Error, Appellant claims that the trial court erred in sentencing. We disagree.

{¶90} The guidelines for misdemeanor sentencing are substantially similar to those applied in felony sentencing. *Strongsville v. Jaeger,* 8th Dist. Cuyahoga No. 99579, 2013–Ohio–4476, ¶4. The court must be guided by the purposes of misdemeanor sentencing, which are "to protect the public from future crime by the offender and others and to punish the offender." *See* R.C. §2929.21(A). When determining the appropriate sentence, the court must consider the factors listed in R.C. §2929.22(B), including the nature and circumstances of the offense or offenses and whether the circumstances indicate that the offender has a history of persistent criminal activity and poses a substantial risk of reoffending. *See* R.C. §2929.22(B)(1). However, there is no requirement that a trial court in sentencing on misdemeanor offenses specifically state its reasons on the record. 5th Dist. Ashland No. 04COA061, 2005–Ohio–1046, ¶20. " 'When the court's sentence is within the statutory limit, a reviewing court will presume that the trial judge followed the standards in R.C. 2929.22, absent a showing to the contrary.' " *Cleveland v. Go Invest Wisely,* 8th Dist. Cuyahoga Nos. 95172, 95173,

95174, 95175, 95176, and 95177, 2011–Ohio–3047, ¶10, quoting *State v. Downie,* 183 Ohio App.3d 665, 2009–Ohio–4643, 918 N.E.2d 218, ¶ 48 (7th Dist.).

{¶91} Appellant was convicted of menacing by stalking, a misdemeanor of the first degree, which carries a maximum jail sentence of 180 days and a maximum fine of $1000. R.C. §2929.24(A)(1). The trial court sentenced Appellant to 180 days with 90 days suspended, Appellant was also placed on probation for three (3) years and was ordered to abide by the terms of the Civil Protection Order issued for the victim. A fine of $500 was also imposed.

{¶92} Appellant's overall sentence is not contrary to law because its terms are within the statutory range for a first-degree misdemeanor.

{¶93} However, while the sentence is not contrary to law, we still review a misdemeanor sentence for an abuse of discretion. *Youngstown v. McElroy,* 7th Dist. Mahoning. No. 05 MA 13, 2005–Ohio–6595, ¶ 26, citing *Youngstown v. Glass,* 7th Dist. Mahoning No. 04MA155, 2005–Ohio–2785, citing R.C. §2929.22. A trial court abuses its discretion when it makes a decision that is unreasonable, unconscionable, or arbitrary. *State v. Adams,* 62 Ohio St.2d 151, 157, 404 N.E.2d 144 (1980).

{¶94} As set forth above, given the record, the maximum sentence was not an abuse of discretion. Appellant's Eighth Assignment of Error is overruled.

IX.

{¶95} In his Ninth Assignment of Error, Appellant claims that the trial court erred in quashing the subpoena for Sarah Arruda. We disagree.

{¶96} Prior to trial, Appellant attempted to subpoena all of the victim's medical records, loans, debts and financial records. The trial court quashed the subpoenas.

{¶97} Upon review, we find that the trial court did not err in quashing said subpoenas. Said information was not relevant to the charges against Appellant. Further, Appellant had the opportunity at trial to question Ms. Arruda as to any relevant testimony.

{¶98} Appellant's Ninth Assignment of Error is overruled.

X.

{¶99} In his Tenth Assignment of Error, Appellant claims that the trial court erred in denying his motion to show cause on the failure of Walnut Township and Match.com to respond to his subpoenas duces tecum. We disagree.

{¶100} Upon review, we find that Appellant did not raise this issue until the morning of trial. Appellant failed to show that either of these two entities had been properly served. Further, Appellant never filed a motion to compel the documents. Finally, Appellant failed to proffer to the trial court why he needed the requested documents.

{¶101} Based on the foregoing, we find the trial court's denial of his show cause motion was not error. Appellant's Tenth Assignment of Error is overruled.

XI.

{¶102} In his Eleventh Assignment of Error, Appellant claims that the trial court erred in allowing hearsay testimony from Det. Craig Feeney at trial. We disagree.

{¶103} At trial, on direct examination, Det. Feeney testified that he was contacted by Det. Boerstler of the Licking County Sheriff's Office and that based on his conversation with Det. Boerstler, he contacted Appellant and told him to cease all communications and contact with the victim in this case.

{¶104} Appellant's cross-examination of Det. Sweeney concentrated more on the fact that no formal complaint or "official record of the alleged police investigation" was

filed against him prior to or subsequent to such conversation. (T. at 161-163). Appellant further questioned Det. Feeney in more detail as to what specifically he said to him in warning him to stay away from Ms. Arruda. (T. at 162-163).

{¶105} Even if Det. Sweeney's testimony included hearsay, which we doubt, we find that the rule of invited error governs this assignment of error. Any error with respect to Det. Sweeney's testimony, including any hearsay elicited by the State in redirect in response to Appellant's cross-examination, was invited by Appellant. A party who invites an error may not demand from the appellate court comfort from its consequences. *See State v. Chappell* (1994), 97 Ohio App.3d 515, 537, 646 N.E.2d 1191, 1204.

{¶106} Appellant's Eleventh Assignment of Error is overruled.

{¶107} For the foregoing reasons, the judgment of the Municipal Court of Licking County, Ohio is affirmed.

By: Wise, J.

Farmer, P. J., and

Delaney, J., concur.

JWW/d 1204