

COURT OF APPEALS  
STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

BETH ODELL

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. John W. Wise, J.

Hon. Patricia A. Delaney, J.

Case No. 2014CA00133

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Canton Municipal Court,  
Case No. 2014CRB01110

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

March 9, 2015

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

ROBERT A. ZEDELL  
Special Prosecutor for  
Canton City Law Department  
Two James Duncan Plaza  
Massillon, Ohio 44646

GEORGE URBAN  
116 Cleveland Ave. NW  
Suite 808  
Canton, Ohio 44702



*Hoffman, P.J.*

{¶1} Defendant-appellant Beth Odell appeals her conviction entered by the Canton Municipal Court for one count of criminal trespass in violation of R.C. 2911.21. Plaintiff-appellee is the state of Ohio.

#### STATEMENT OF THE FACTS AND CASE

{¶2} Appellant Beth Odell is a former employee of the William McKinley Presidential Library and Museum. Appellant worked at the Presidential Library as a librarian. Subsequent to her dismissal, Appellant began posting negative commentary on social media relative to the business affairs of the museum and library. In February of 2014, Appellant attempted to enter the William McKinley Library and Museum property, but was refused admission. The incident was reported to the Canton Police Department, but no charges were filed. The William McKinley Presidential Library and Museum is private property, not owned by a governmental entity. However, the property is open to the public.

{¶3} On March 18, 2014, Kimberley Kenny, the curator of the William McKinley Presidential Library and Museum (Museum) observed Appellant on property owned by the Museum. The Museum contacted the police department.

{¶4} On March 14, 2014, a letter was generated from the Canton Law Department addressed to Appellant advising Appellant she was to have no contact with the William McKinley Presidential Library and Museum. On March 18, 2014, a prosecutor from the Canton Law Department personally met with Appellant to advise her of the same. However, it is undisputed the letter did not specifically state Appellant



was not permitted to visit the William McKinley Monument located on the same property as and owned by the William McKinley Presidential Museum and Library.

{¶5} On March 27, 2014, Officer Scott Jones of the Canton Police Department responded to a call to remove an unwanted person from the McKinley Monument. Upon making contact with Appellant, Officer Jones attempted to reason with Appellant. Appellant refused to leave the property. Appellant later testified she had returned to the Monument for a board meeting, but was arrested by the Canton Police Department.

{¶6} As a result of the March 27, 2014 incident, Appellant was charged with one count of criminal trespass, in violation of R.C. 2911.21.

{¶7} Following a jury trial, Appellant was convicted of the charge and sentenced accordingly.

{¶8} Appellant appeals, assigning as error:

{¶9} "I. THE APPELLANT'S CONVICTION FOR ONE COUNT OF CRIMINAL TRESPASS IN VIOLATION OF R.C. 2911.21 WAS AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE."

{¶10} In determining whether a verdict is against the manifest weight of the evidence, the appellate court acts as a thirteenth juror and "in reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses, and determines whether in resolving conflicts in evidence the jury '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. Thompkins*, 78 Ohio St.3d 380, 387, 1997–Ohio–52, 678 N.E.2d 541, quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1983).



{¶11} An appellate court's function when reviewing the sufficiency of the evidence is to determine 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.

{¶12} Appellant was convicted of criminal trespass, in violation of R.C.2911.21, which reads in pertinent part,

(A) No person, without privilege to do so, shall do any of the following:

\*\*\*

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

R.C. § 2911.21

{¶13} The testimony presented at trial demonstrates Appellant was employed at the William McKinley Presidential Museum and Library for approximately nine months



as a librarian. A letter sent to Appellant from the Presidential Museum and Library notified her she was not to return to William McKinley Presidential Museum and Library. As an employee of the Museum and Library, Appellant knew, or should have known of the property owned and operated by the entity. Further, Appellant had been advised by the Canton Police Department in February of 2014, not to return to the property. Further, on the date of the incident Officer Jones testified Appellant refused to leave the property despite continued requests to do so. Officer Jones testified,

Q. Alright. I guess not. I'm going to direct your attention to the date of March 27th of 2014 and an incident that happened at the McKinley Museum - - McKinley Monument in Canton. If you can, can you tell the jury what contact you had with one Beth Odell on that day?

A. Yes, sir. We were dispatched to the museum reference an unwanted person that was on the property of the monument which is attached to the museum. They told us about the defendant and they told us where we could find her and we went outside. She was waiting on us. She knew we were coming. She was sitting out by the front wall in front of the monument before you get to the stairs. We made contact with her. We identified ourselves as police officers. Asked her for identification. At first she was kind of unwilling to give us identification, uh, but you know, once we talked to her a little bit and kind of made her understand why we were there, she was forthright with it. We advised her that the museum didn't want her on the property and that we - - at that time we didn't know she had been terminated previously, but we - - you know, they showed us



a letter that they received from the Canton City Prosecutor's Office that said, you know, that she wasn't to be on the property and she had been served with that letter. I asked her if she had been served with that letter and she said she had. She was nice for the most part so for that, you know, we were - - we were willing to give her a warning and just tell her, "Hey, listen, you're not welcome to be on the property. That extends to the monument and also to the museum, and if you could leave that would be in your best interest." And at that point, you know, she was kind of arguing with us about how it was a federal landmark and we didn't have the right to kick her off. We explained to her that this letter states that she didn't have the right to be here and we asked her again that she needed to leave. At that point she began to walk away but instead of leaving and getting on her bicycle she started yelling to the kids that were on the stairs of the monument, you know, telling her story of it's unjust that she's been kicked off. It's not fair. She's drawing attention to herself now after we've asked her to leave several times. You know, and I walked over, I arrested her. You know, I - - I told her to leave. She was refusing to leave. Instead of getting on her bicycle like I'd asked her to do and leave the property she decides to engage these kids in conversation and let them know that it's unfair that we're kicking her off the property. That's why she was arrested.

Q. Okay. Now you did make an arrest at that point in time?

A. Yes sir.



Tr. at 91-93.

{¶14} Based upon the above, we find the jury did not lose its way, and the evidence supports Appellant's conviction for criminal trespass.

{¶15} The sole assignment of error is overruled.

{¶16} Appellant's conviction for one count of criminal trespass, in violation of R.C. 2911.21, entered by the Canton Municipal Court is affirmed.

By: Hoffman, P.J.

Wise, J. and

Delaney, J. concur