

[Cite as *State v. Jackson*, 2011-Ohio-462.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94761

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

KEVIN O. JACKSON

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-525974

BEFORE: Cooney, J., Stewart, P.J., and Keough, J.

RELEASED AND JOURNALIZED: February 3, 2011

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COLLEEN CONWAY COONEY, J.:

{¶ 1} Defendant-appellant, Kevin O. Jackson (“Jackson”), appeals his tampering with records conviction. We find no merit to the appeal and affirm.

{¶ 2} Jackson was charged with failure to provide notice of change of address in violation of R.C. 2950.05(E)(1) and tampering with records in violation of R.C. 2913.42(A). The case proceeded to a jury trial, at which the following evidence was presented.

{¶ 3} In 2007, Johnson was convicted of sexual battery. He was classified as a sexually oriented offender and required to report to the Cuyahoga County Sheriff's office

(“Sheriff’s office”). In April 2009, Jackson came into the Sheriff’s office to complete his sex offender registration and indicated on the form that he resided at 3663 East 117th Street in Cleveland.

{¶ 4} Deputy Martin Lutz (“Lutz”) testified that in April 2009 he received an assignment to verify that Jackson was living at the address he provided on the registration form. He went to the residence, learned that Jackson was not living at that address and referred the matter to Deputy Kathleen Orlando (“Orlando”) for further investigation. Orlando tried, unsuccessfully, to contact Jackson by phone at the number he provided on his registration form and referred the case to the county prosecutor.

{¶ 5} According to Belinda Anderson (“Anderson”), Jackson’s ex-girlfriend, Jackson lived with her on West 140th Street in Cleveland during March, April, and May 2009. Jackson kept all of his belongings at her house and slept there every night until he moved in early June to live with his new girlfriend on East 55th Street. Anderson testified that after being arrested and released on bond, he called her twice to ask her to testify in court that he was living at the East 117th Street address. When she refused, Jackson threatened to “F— her up,” and “split her face.” Anderson reported the threatening phone calls to Jackson’s parole officer and Deputy Orlando because she was concerned for her safety.

{¶ 6} Kevin Rollins (“Rollins”), who lived with Jackson’s father, Kenneth Jackson (“Kenneth”), testified that he moved to East 117th Street with Kenneth in the spring of 2009,

and that Jackson did not live with them. He further stated that he met Jackson and Anderson during a brief visit to Kenneth’s house.

{¶ 7} The jury found Jackson guilty of tampering with records and not guilty of failure to notify the sheriff of his address. The court sentenced him to one year in prison and three years postrelease control. Jackson now appeals, raising two assignments of error.

{¶ 8} In his first assignment of error, Jackson contends his conviction was not supported by sufficient evidence. The test for sufficiency requires a determination of whether the prosecution met its burden of production at trial. *State v. Bowden*, Cuyahoga App. No. 92266, 2009-Ohio-3598, ¶12. The 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 942, paragraph two of the syllabus.

{¶ 9} Jackson was convicted of tampering with records in violation of R.C. 2913.42, which provides that: “[n]o person * * * with purpose to defraud * * * shall * * * [f]alsify any * * * writing * * * or record belong[ing] to a local, state, or federal governmental entity.” R.C. 2913.42(A)(1); R.C. 2913.42(B)(4).

{¶ 10} Jackson contends there was insufficient evidence to support his conviction because Rollins could not remember the exact address of Kenneth’s house on East 117th Street and because Deputy Orlando conducted a poor investigation. We disagree.

{¶ 11} When Jackson completed his sex offender registration form at the Sheriff's office, he provided 3663 East 117th Street in Cleveland as his home address on April 27, 2009.

However, Anderson testified that Jackson lived with her at her home on West 140th Street from March through May, 2009. She explained that he kept all of his belongings in her house and slept there every night until June when he moved out.

{¶ 12} Anderson's testimony is corroborated by Kevin Rollins who testified that he lived with Jackson's father, Kenneth, on East 117th Street. Although Rollins could not remember the exact address of Kenneth's house, he testified that the house was located on East 117th Street and that Jackson did not live at that address. Rollins stated that he met Jackson and Anderson during a brief visit to Kenneth's house. Anderson also testified that she met Rollins at Kenneth's home during a brief visit.

{¶ 13} Deputies Lutz and Orlando testified that the sex offender registration materials are maintained by the Cuyahoga County Sheriff's office, a local governmental agency. The information Jackson provided was also added to computer data maintained by the Ohio Attorney General's office, a state governmental agency. Based on this evidence, we find there was sufficient evidence to support Jackson's tampering with records conviction.

{¶ 14} Accordingly, the first assignment of error is overruled.

Manifest Weight of the Evidence

{¶ 15} In the second assignment of error, Jackson argues his conviction was against the manifest weight of the evidence. A manifest weight challenge questions whether the prosecution met its burden of persuasion. *State v. Thomas* (1982), 70 Ohio St.2d 79, 80, 434 N.E.2d 1356. The appellate court reviews the entire record, weighs the evidence, considers the credibility of all witnesses, and determines whether, in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new proceeding ordered. *State v. Martin* (1983), 20 Ohio App.3d 172, 175, 485 N.E.2d 717. Where a judgment is supported by competent, credible evidence going to all essential elements to be proven, the judgment will not be reversed as being against the manifest weight of the evidence. *State v. Mattison* (1985), 23 Ohio App.3d 10, 14, 490 N.E.2d 926.

{¶ 16} Jackson contends the State's witnesses were not credible because Anderson, the State's key witness, was jealous that Jackson had left her for another woman and fabricated her version of the facts to avenge his betrayal. However, Jackson's defense counsel exposed Anderson's bias and potential motive to be untruthful to the jury. The jurors were present to observe her demeanor and perceive her testimony firsthand and in the context of all the evidence presented at trial. As mentioned earlier, some of Anderson's testimony was corroborated by other witnesses, which bolsters her credibility. The jury deliberated and

found the State’s witnesses credible and relied on their testimony to find Jackson guilty beyond a reasonable doubt.

{¶ 17} An appellate court will overturn a conviction as being against the manifest weight of the evidence only in rare cases where the evidence presented at trial weighs heavily in favor of acquittal. *State v. Thompkins* (1997), 78 Ohio St.3d 380, 386-87, 678 N.E.2d 541. This is not a case where the evidence weighs heavily against the conviction or where the factfinder lost its way.

{¶ 18} Accordingly, Jackson’s second assignment of error is overruled.

Judgment affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant’s conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

COLLEEN CONWAY COONEY, JUDGE

MELODY J. STEWART, P.J., and
KATHLEEN ANN KEOUGH, J., CONCUR