[Cite as *Woodmere v. Korponic*, 2017-Ohio-6893.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105266

VILLAGE OF WOODMERE, OHIO

PLAINTIFF-APPELLEE

vs.

GREGORY KORPONIC

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Bedford Municipal Court
Case No. 16 TRD 04828

BEFORE: S. Gallagher, J., Keough, A.J., and Stewart, J.

RELEASED AND JOURNALIZED: July 20, 2017

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SEAN C. GALLAGHER, J.:

{¶1} Appellant Gregory Korponic appeals his conviction for leaving the scene of an accident. Upon review, we affirm.

{¶2} On June 28, 2016, appellant was cited for violating Woodmere Codified Ordinances ("WCO") 335.12(a) for leaving the scene of an accident and WCO 331.03 for overtaking, passing to the left.

{¶3} The case proceeded to a bench trial. At trial, testimony and evidence were presented with regard to an automobile accident on Chagrin Boulevard in the village of Woodmere, allegedly involving appellant and a vehicle driven by Donnie Steed.

{¶4} Steed testified that he was waiting at a light in a single lane of heavy traffic. When the light changed, the vehicle behind him drove to his left into a turning lane, struck the side of Steed's vehicle, and then sped away and "passed all the traffic and jumped on the highway." Steed testified that the impact was sufficient to rock his vehicle and to cause damage to his vehicle. Steed described the offender's vehicle as a "heavy duty truck with duallys," which he indicated are "two sets of wheels in the back." Steed testified that he followed the vehicle, which was "jumping from lane to lane," and when he caught up to the vehicle on the highway and motioned the driver, he "looked me in my face and took off." Steed was able to obtain the license plate number, and he got a look at the driver of the vehicle. He called to report the incident to the police. Steed testified he was certain that the vehicle he was following was the vehicle that struck his and he was able to see the operator of the vehicle, whom he identified as appellant. He

also observed that a passenger was in appellant's vehicle. Steed testified that he had his vehicle repaired at a body shop. He did not suffer any injuries. No repair records were introduced.

{¶5} A patrol officer for the village of Woodmere took a statement from Steed. The officer testified that he observed damage to Steed's vehicle. The officer contacted appellant, and the two met at the police station. The officer testified that appellant came to the station in a "Chevy pick-up" and that there appeared to be damage to the rear of the truck that was possibly prior damage. He did not see any paint that came off Steed's vehicle on appellant's truck. The officer testified that appellant denied being in the automobile accident. The officer issued appellant two citations. He testified to taking photographs of the vehicles, but no photographs were introduced.

{¶6} The individual who photographed the vehicles for insurance purposes testified that he took pictures of Steed's white car, a Chevy Cruze, and of appellant's "Ford F-350." He testified to very little damage to the Chevy Cruze, but indicated that the damage had already been repaired and it looked like scratch marks had been rubbed out. He testified that the black Ford F-350 had several dents, but that they appeared old. He confirmed on cross-examination that he was pretty sure the truck he examined was a Ford F-350, not a Chevy Silverado, which was the vehicle allegedly involved in the accident. Again, no photographs were introduced.

{¶7} Appellant testified that he did drive down Chagrin Boulevard through the village of Woodmere on the date of the alleged accident and that his vehicle is a Chevy

3500 Silverado, which is a dually pickup truck. He denied having any knowledge of the incident and testified it did not occur. He further testified to his route of travel, which did not involve getting onto the highway where Steed testified to obtaining appellant's license plate number. Appellant denied any vehicle approaching his from the side and signaling that he had struck the other vehicle. He testified that he did not provide a statement to the patrolman because he had no version of the alleged accident to report. On cross-examination, appellant conceded that Steed had his license plate number correct. Appellant also indicated that he did have a passenger in his vehicle. He acknowledged his understanding of his duty to stop and to not leave the scene after an accident.

{¶8} The trial court found appellant guilty of leaving the scene of an accident and not guilty of the other charge. The trial court fined appellant $500 and ordered him to pay costs.

{¶9} Appellant timely filed this appeal. He raises two assignments of error for our review.

{¶10} Under his first assignment of error, appellant claims there was insufficient evidence to support a finding that he had knowledge of the accident. A claim of insufficient evidence raises the question whether the evidence is legally sufficient to support the verdict as a matter of law. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541. In reviewing a sufficiency challenge, "[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*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

{¶11} WCO 335.12(a) provides in relevant part:

> In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, *having knowledge of the accident or collision*, immediately shall stop the driver's or operator's motor vehicle at the scene of the accident or collision and shall remain at the scene * * *.

(Emphasis added.)

{¶12} Appellant claims that there was no testimony that he was aware any accident occurred or that he left the scene with knowledge that an accident had occurred. He has maintained that he was not involved in any accident with the vehicle driven by Steed, and that if an accident occurred, someone else was the party to it. He further relies upon a comment by the trial court, made after the court found appellant guilty and at the time of sentencing, in which the court remarked: "now maybe you got into an accident and you didn't know it, I'm going to leave that, you know, give you the benefit of the doubt, there was an accident there and you caused the accident. That's what I'm finding."

{¶13} Knowledge that there has been an accident or collision can be established by circumstantial evidence. *Willoughby v. Lyons*, 11th Dist. Lake Nos. 2005-L-043 and 2005-L-044, 2006-Ohio-1005, ¶ 18; *State v. Criswell*, 11th Dist. Portage No. 92-P-0080, 1993 Ohio App. LEXIS 2305, 6 (Apr. 30, 1993). Our review of the record reflects evidence was presented upon which the trier of fact could infer from the surrounding

facts and circumstances that appellant had knowledge of the accident. Mr. Steed testified that the impact was sufficient to cause his vehicle to rock, and that the driver of the truck sped off, weaving through traffic. Mr. Steed provided a description of the truck, which had "dually wheels," and testified that he was certain the truck he followed was the vehicle that struck his vehicle. He testified that he caught up to the vehicle on the highway, viewed the driver of the vehicle, observed a passenger in the vehicle, obtained a license plate to the vehicle, and signaled to the vehicle, which again took off.

{¶14} Upon these circumstances, the trier of fact could reasonably infer that appellant had knowledge of the accident. Additionally, the trial court's remark at sentencing was made in reference to appellant's claim that he had no knowledge of an accident. The trial court was well aware of the elements of the offense for violating WCO 335.12(a). In reaching a determination of guilt, the trial court reviewed the testimony provided, considered the credibility of the witnesses, believed that Steed was telling the truth, and concluded that although appellant "may have cast some doubt because you're denying it[,]" that the prosecutor "met his burden of proof beyond a reasonable doubt."

{¶15} This court will not substitute its judgment for that of the trial court when the trial court's decision is supported by facts and circumstances presented in the record and rational inferences that can be drawn therefrom. Appellant's first assignment of error is overruled.

{¶16} Under his second assignment of error, appellant claims his conviction is against the manifest weight of the evidence. When reviewing a claim challenging the manifest weight of the evidence, the court, reviewing the entire record, must weigh the evidence and all reasonable inferences, consider the credibility of witnesses, and determine 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 conviction must be reversed and a new trial ordered. *Thompkins*, 78 Ohio St.3d at 387, 1997-Ohio-52, 678 N.E.2d 541. Reversing a conviction as being against the manifest weight of the evidence should be reserved for only the exceptional case in which the evidence weighs heavily against the conviction. *Id.*

{¶17} Appellant argues that the only evidence of damage to his truck was that the damage was old and too high to have been caused by a collision with a car. However, there was an inconsistency with the make and model of the truck that was photographed for the insurance company. Although there was an absence of photographic evidence, testimony was offered as to observations of the vehicles. Despite any lack of evidence concerning recent damage to the truck, the record as a whole supported a determination that appellant was involved in an accident with Steed and that appellant left the scene with knowledge of the accident.

{¶18} Appellant's assertions concerning his lack of knowledge of any accident and the plausibility of Steed's testimony do not render his conviction against the weight of the evidence. Although appellant denied being in an accident, he conceded that he drove

down Chagrin Boulevard in a truck with dually wheels on the date of the incident. He also denied driving on the highway, but conceded that the license plate number obtained by Steed was his and that he had a passenger in his vehicle. The patrolman testified to observing damage to Steed's vehicle after the accident occurred.

{¶19} After reviewing the entire record, weighing inferences, and examining the credibility of the witnesses, we find that appellant's conviction for leaving the scene of an accident was supported by the manifest weight of the evidence. The state presented testimony and evidence from which the trier of fact could have found the essential elements of the offense proven beyond a reasonable doubt. Appellant's second assignment of error is overruled.

{¶20} Judgment affirmed.

It is ordered that appellee recover from 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 municipal court to carry this judgment into execution.

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

SEAN C. GALLAGHER, JUDGE

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