

In the
Supreme Court of Ohio

STATE OF OHIO,	:	Case No. 2024-1770
	:	
Plaintiff – Appellant,	:	On Appeal from the Court of Appeals
	:	Eighth Appellate District
v.	:	Cuyahoga County
	:	
LEANDER BISSELL ,	:	Court of Appeals Case #113158
	:	
Defendant – Appellee.	:	

**Brief of Amici Curiae Fraternal Order of Police of Ohio, Inc. and
Ohio Association of Professional Fire Fighters
in Support of Appellant**

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I. STATEMENT OF INTEREST OF AMICI CURIAE

Ohio's first responders serve on the front lines of public safety, often in hazardous environments where their lives depend on compliance with established safety protocols. This case highlights the legal accountability of individuals whose knowingly dangerous conduct results in harm or death to first responders. The first responder here was Firefighter Johnny Tetrick. He was killed by the Defendant who, ignoring clear warnings, drove around police cars that were blocking two lanes of traffic, then while driving on one of those blocked lanes sped through an active accident scene where fire and police personnel were attending to the passengers of the two vehicles involved in the accident. Tetrick was struck and killed by the Defendant.

This tragic event underscores the vulnerability of emergency personnel and the need for strict legal consequences to deter such behavior. Reducing the accountability of individuals in similar situations places not only first responders but also the public at risk.

The Fraternal Order of Police of Ohio ("FOP") and the Ohio Association of Professional Fire Fighters ("OAPFF") submit this brief as *amici curiae* in support of the State's position in the matter of the Defendant's conviction and subsequent reversal on appeal. Both organizations are deeply committed to the safety, security, and welfare of their members, who face significant risks in the line of duty while responding to emergencies and protecting the public. As organizations that collectively represent tens of thousands of law enforcement officers and firefighters who serve and protect the public under hazardous conditions, *amici* have a profound interest in ensuring that judicial decisions appropriately reflect the gravity of conduct that endangers the lives of first responders.

The Fraternal Order of Police of Ohio is the largest law enforcement organization in the state, representing over 24,000 active and retired law enforcement officers. As the fraternal

organization for thousands of sworn officers across Ohio, the FOP emphasizes that this case is not only just about a tragic loss of life but also about the daily risks police officers face when they respond to emergencies. Every decision that reduces accountability for those who knowingly endanger officers sends a dangerous message that the law will tolerate conduct that places law enforcement at grave risk. That outcome is unacceptable to the FOP membership, who already face increased hostility and dangers on Ohio's roadways.

The Ohio Association of Professional Fire Fighters represents more than 13,000 full-time professional firefighters, paramedics and emergency responders throughout Ohio. Its members are dedicated to protecting life, property and community safety. To do so they must often perform their duties in hazardous situations. But they should be able to rightfully assume that while they tend to the injured, others will not knowingly engage in such extreme conduct that it threatens the safety and very lives of those emergency responders.

The appellate court's decision to reverse the Defendant's murder conviction raises concerns about the legal standards applied to conduct that endangers first responders. *Amici* are alarmed that such a decision could undermine the accountability of individuals whose deliberate actions jeopardize the lives of those who serve the public in emergencies. Ensuring robust legal protections and enforcement mechanisms is essential to safeguarding first responders and maintaining public trust in the justice system.

Both law enforcement officers and firefighters routinely place themselves in harm's way to serve their communities, often in unpredictable and high-stakes situations. The outcome of this case will have far-reaching implications for the safety of first responders across Ohio and beyond. The courts must affirm the principle that those who endanger the lives of first responders through intentional acts must be held fully accountable for their actions.

For these reasons, the FOP and the OAPFF respectfully submit this statement of interest,

urging the court to reverse the appellate court and reinstate the verdict of the common pleas court.

II. STATEMENT OF FACTS

On November 19, 2022, first responders were called to a critical accident on Interstate 90 eastbound near Martin Luther King Jr. Boulevard involving an overturned vehicle obstructing the leftmost lane. *State v. Bissell*, 2024-Ohio-5317. Recognizing the potential for further harm, law enforcement officers from the Cleveland Division of Police and the Bratenahl Police Department arrived promptly and took immediate action to secure the scene. They used their vehicles to close off the left two lanes, redirecting traffic into the right lanes to protect the lives of responders and motorists alike. *Id.*, at ¶2.

Shortly after, firefighters from the Cleveland Fire Department, including Johnny Tetrick, Bryan Burvis, Tony Trujillo, and Lieutenant Jeffrey Vollmer, arrived to provide vital assistance. Demonstrating their commitment to public safety, the firefighters undertook a comprehensive assessment of the scene. The firefighters inspected the overturned vehicle to rule out the need for extrication along with another vehicle involved in the accident located on the shoulder of the right lane.

In the midst of these heroic efforts, the tragic consequences of one individual's deliberate actions unfolded. As Firefighter Tetrick crossed the highway to ensure all hazards were cleared, Bissell disregarded the clearly marked safety measures in place. Ignoring the blocked lanes and the warning provided by police and emergency vehicles with flashing lights, Bissell accelerated to a dangerous speed of 45-60 mph in the restricted area. *Id.*, at ¶ 3. Despite the selfless actions of the firefighters, Bissell struck Firefighter Tetrick with such force that his body was thrown across multiple lanes. This senseless act cost Firefighter Tetrick his life.

The deliberate nature of Bissell's actions became evident as the investigation progressed. Video evidence and witness testimony revealed that Bissell, frustrated by the slowed traffic, cut into lanes blocked for emergency response. He knowingly swerved past police vehicles, passing on the berm, accelerating in one of the blocked lanes as he approached the scene. His blatant disregard for the safety of emergency personnel placed not only his own life but also the lives of all first responders and bystanders in jeopardy.

A Cuyahoga County grand jury indicted Bissell in a seven-count indictment: felony murder, two counts of felonious assault, involuntary manslaughter, failure to comply, aggravated vehicular homicide and failure to stop at the scene of an accident. *Id.*, at ¶¶4. After a bench trial, the trial court found Bissell guilty on all charges. *Id.*, at ¶5.

The Eighth District Court of Appeals overturned the failure to comply conviction and the felony murder conviction. *Id.*, at ¶¶ 13 and 32. The majority determined instead that Bissell was only reckless and guilty of the offense of involuntary manslaughter. *Id.*, at ¶ 31.

III. ARGUMENT

Proposition of Law I: A person acts knowingly under R.C. 2901.22(B) when the person is aware that the conduct will probably cause a certain result. "Knowingly" does not require that person to purposefully intend to cause the resulting harm. Serious and even fatal injury to emergency personnel, other drivers, or pedestrians, is probable, not just likely, and a motor vehicle driver therefore acts knowingly when the driver ignores police vehicles with flashing lights closing down highway lanes, passes around those vehicles using the berm and closed lanes, and speeds through a closed-off accident area where emergency workers are present.

The problem with the Court of Appeals ruling in this matter is that it seems to equate what really are two very different concepts: (1) acting purposely and (2) acting knowingly. R.C. 2901.22, regarding the degrees of culpability attached to mental states, provides as follows:

(A) A person acts purposely when it is the person's specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature,

regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.

(B) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(C) A person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

The Common Pleas Court convicted Defendant of murder under R.C. 2903.02(B), which states that “No person shall cause the death of another as a proximate result of the offender's committing or attempting to commit an offense of violence that is a felony of the first or second degree....” The felonies committed by Defendant were R.C. 2903.11(A)(1) and (2), which read as follows:

(A) No person shall knowingly do either of the following:

(1) Cause serious physical harm to another or to another's unborn;

(2) Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

The Common Pleas Court and the dissenting judge in the Court of Appeals found Defendant's conduct to have been done knowingly. Therefore, he was guilty of the felonious assault charge and so also the murder charge. However, the Court of Appeals majority, in reversing the murder conviction, blurred the lines between conduct done “purposely” and conduct done “knowingly.”

For instance, the majority discussed the case of *State v. Takacs* in the following manner:

[¶19] In *State v. Takacs*, 2015-Ohio-4585 (8th Dist.), a felonious assault case, the victim testified that after an encounter near a parking space, the defendant aimed his car at her

and accelerated; she had to jump out of the way to avoid being hit. While his high rate of speed was a factor, there was evidence that the defendant was irate at the victim, video evidence that the defendant aimed his car at the victim, that witnesses heard the car accelerate, and that the defendant swerved towards the victim causing her to jump out of the way.

A defendant who gets into an argument with the eventual victim, then intentionally aims his car at the victim and accelerates in an attempt to hit the victim would seem to be acting “purposely.” Aiming a car at another person and then accelerating to hit that person would seem to be the very definition of purposeful conduct. Yet, the majority found Bissell did not act “knowingly” because: “In the instant case, there was no evidence of a prior altercation between Bissell and Firefighter Tetrick, no evidence that Bissell saw Firefighter Tetrick in the road, or that he deliberately aimed his car at Firefighter Tetrick.” *Id.*

Apparently because Bissell did not deliberately aim his car at Firefighter Tetrick, the majority concluded that “there is no evidence Bissell knowingly used his car as a weapon to cause serious physical harm.” ¶23. “Knowingly” does not require a person to purposefully intend to cause the resulting harm. Purpose or intent is not an element of acting knowingly, yet the majority seemingly required the State to prove Bissell’s purpose or intent to justify the felonious assault conviction and the accompanying murder conviction. The majority erred when it concluded that Defendant’s conduct was not done “knowingly” because Defendant did not have a prior altercation with Firefighter Tetrick and did not deliberately aim his car at him.

The majority also attempted to justify its reversal of the murder conviction by seriously understating the circumstances surrounding Bissell’s conduct. The majority stated the following in its opinion:

[¶26] As seen above, in discussing Bissell’s conduct, the trial court focused on the surrounding circumstances, the presence of police and fire, the traffic moving into Lanes 3 and 4, and the absence of traffic in Lane 2. Noting that Bissell was clearly aware of those circumstances, the trial court found that he acted knowingly such that Bissell (sic)

was guilty on all counts. However, knowledge of the surrounding circumstances and acting anyway disregarding a substantial risk is a hallmark of reckless conduct.

Let's look at the "circumstances," in this case, including those cited by the majority, as well as those ignored by the majority, to see if Defendant's conduct was just reckless, or knowing.

First, the "presence of police and fire." But it was much more than just police and fire being present as the majority indicated. Their presence was quite large, with multiple vehicles from different police departments and the Cleveland Fire Department, and it was quite noticeable, with the many vehicles displaying their flashing emergency lights.

Several of those vehicles were located before the accident scene, with one police car with flashing lights blocking the two left lanes, directing and forcing traffic to merge onto lanes 3 and 4 (the right two lanes). Another police car was stationed between the first police car and the accident scene, also blocking lanes 1 and 2, making sure drivers continued on lanes 3 and 4.

The presence of police vehicles well before the accident scene gave Defendant ample warning that there was trouble ahead. And the multiple vehicles at the accident scene, with emergency lights flashing, and the emergency personnel (some wearing reflective clothing) on the scene, walking across the lanes and attending to vehicles on both the left lane and right shoulder, also provided a warning to Defendant. Defendant knew much more than that there was a police and fire "presence"; he had to have known that there was a situation in which everyone, including him, had to proceed with caution, or someone would be harmed.

The second circumstance noted by the majority was "the traffic moving into Lanes 3 and 4." It almost sounds as if drivers were simply voluntarily moving out of the left two lanes. As noted, that is not the case: they were being directed and forced to move out of lanes 1 and 2 and into lanes 3 and 4. There was no doubt in any of the drivers' minds that they had to merge into

and proceed only on lanes 3 and 4. All drivers moved into lanes 3 or 4. Defendant himself initially followed the first police car's direction and merged into lane 3.

The majority also refers to "the absence of traffic in Lane 2" as a "surrounding circumstance." Absent except for Defendant, who deliberately chose to move out of lane 3, drive on the left berm to get around a police car blocking traffic from lanes 1 and 2, and then proceed through the accident scene on the blocked lane 2.

Another circumstance in this case is the simple fact that Defendant chose to exercise no caution whatsoever when driving through the accident scene on a blocked lane. To the contrary, he sped through the accident scene in a way that serious and even fatal injury to emergency personnel and others was quite probable.

When you review the video recordings in this matter, you see that the traffic on lanes 3 and 4 was very slowly moving through the accident scene. Those vehicles are just inching along, and other times they are completely stopped so that first responders can cross from one side of the road to the other.¹ But then you see Defendant, coming out of nowhere on a blocked lane and zooming through the accident scene at an estimated speed between 45 and 60 m.p.h. Firefighter Tetrick had no chance.

For some reason, the majority in the Court of Appeals clearly appears to downplay the fact that Defendant approached and traveled through the accident scene at very high rate of speed. The majority says that "The State argues that Bissell's rate of speed alone was sufficient to establish that he acted knowingly," but then discounts the argument saying "the State produced no case law to support this argument." ¶18. The majority further noted that case law

¹In fact, traffic in lanes 3 and 4 was stopped because the firefighters were crossing the road at the very time Defendant sped through the accident scene.

"required more than speed to establish that someone knowingly caused serious harm." Id.

Yet the majority did not even mention Defendant's excessive speed again after this, not even including it as one of the "surrounding circumstances" of Defendant's conduct.

When you look at all of the circumstances in this case, it is quite apparent that Defendant knew that his conduct would quite probably result in serious physical harm or even death. His deliberate decision to ignore a police vehicle directing traffic into lanes 3 or 4, to drive around another police vehicle blocking those lanes, to ignore all of the flashing emergency lights, and to deliberately speed through an intersection where numerous first responders (some clearly visible due to the reflective clothing they were wearing) were working on both sides of the road clearly shows that he was aware that his conduct would probably cause serious harm or even death to another.

For law enforcement officers, the Court of Appeals' decision compounds a systemic problem: too often, courts minimize conduct that places officers at heightened risk simply because the actor claims he did not "intend" the harm. But intent is not the standard here; knowledge is. Police officers regularly respond to crash sites and traffic hazards where compliance with police directions is the only barrier protecting them and other emergency workers from becoming victims themselves. If drivers who blatantly bypass marked closures and accelerate into accident zones are treated as merely "reckless," then officers across Ohio are left with diminished legal protection. The majority's decision that his conduct was only reckless ignores the fact that his conduct was much more, it was knowing.

The Court of Appeals decision to reduce the conviction from felony murder to involuntary manslaughter risks eroding public confidence in the legal system's ability to deliver justice. Firefighter Tetric's death was not merely the result of an accident but occurred because

of a deliberate and knowing disregard for safety measures. The trial court correctly applied the felony murder doctrine to hold the Defendant accountable for the natural and probable consequences of his conduct.

This decision creates a precedent where dangerous conduct may be downgraded to recklessness, even when the evidence suggests a knowing disregard for life and safety. The felony murder doctrine plays a vital role in deterring reckless and dangerous conduct during the commission of inherently hazardous activities. By substituting intent to commit the predicate felony for intent to kill, the doctrine ensures that individuals take extraordinary care to avoid harm during such acts.

In this case, the Court of Appeals' decision to reject the application of felony murder undermines this deterrent effect. The appellate court conflated recklessness with knowledge, overlooking clear evidence that the defendant acted with an awareness of the risks his conduct posed to others. Reaffirming the trial court's application of the felony murder doctrine will reinforce the principle that those who endanger first responders will be held to the highest standard of accountability.

Proposition of Law II: A violation of R.C. 2921.331, failure to comply with order or direction of police officer, does not require a verbal command from a police officer. Police vehicles with flashing blue lights blocking lanes convey a "lawful order or direction" that drivers must stay out of the lane.

The majority of the Court of Appeals reversed Defendant's conviction for violating R.C. 2921.331(A), which reads "No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic." The majority stated that there was insufficient evidence to support a conviction for violating R.C.

2921.331(A). ¶13. This conclusion clearly ignores what would seem to be settled law as well as the language of the statute itself.

In *State v. McDonald*, 137 Ohio St. 3d 517, 2013-Ohio-5042, this Court noted that R.C. 2921.331(A) can apply to an offender who simply ignores an officer's traffic signal. This is absolutely consistent with the language of the statute making it a crime to fail to comply with any "direction of any police officer." Ignoring, or acting contrary to, a traffic signal is a failure to comply with an officer's direction.

As the dissenting judge in the court below correctly noted:

The officers were directing traffic by placing their vehicles on the road with their lights flashing, which arguably every motorist would interpret as a direction to move to the right because there is an active scene ahead. To hold otherwise would render these measures meaningless and convey to motorists at the police and fire department's attempts to secure a scene are merely "suggestions." ¶54.

It is unclear exactly what the majority expects an officer to do at the scene of a traffic accident in order to invoke the application of R.C. 2921.331(A). Blocking lanes with their cars, lights flashing, is obviously used quite often to direct motorists. Unlike the majority, the dissenting judge realized that Defendant's conduct in ignoring the direction of the police officers constituted a violation of R.C. 2921.331(A).

First responders operate with the expectation that a police officer's signals will ensure their safety. For police officers, those signals are not abstract legal concepts, they are life-or-death directives. Police vehicles positioned across lanes with flashing lights are universally recognized as commands, not suggestions. If this Court adopts the appellate majority's reasoning, it will erode the authority of officers at crash scenes and undermine their ability to control inherently dangerous environments. Such an outcome would embolden noncompliance, endanger both first responders and the motoring public, and weaken the respect necessary for officers to maintain order during emergencies. If courts fail to affirm that disobedience to the officers' directions constitutes a violation of the law, it will lead to increased

risks for first responders. Emergency scenes are inherently dangerous, and any precedent that weakens protections may impair the ability of first responders to efficiently carrying out their duties.

IV. CONCLUSION

The public depends on first responders to perform their duties without the added risk of avoidable harm. The majority opinion ignores the reality that diminishing accountability for individuals who endanger first responders undermines public trust in the safety and effectiveness of emergency operations.

The Fraternal Order of Police of Ohio, Inc. and the Ohio Association of Professional Fire Fighters urge this Court to reverse the Court of Appeals. That Court was wrong, and its erroneous conclusions, if allowed to stand, will have a tremendous adverse impact on the safety and security of first responders and the communities they serve in Ohio. Anything less than full reinstatement of the trial court's judgment will have an immediate chilling effect on officer safety across Ohio. Every law enforcement officer responding to a crash or emergency relies on the presumption that Ohio's laws will hold individuals accountable when they knowingly disregard police orders and create deadly conditions. A weakened standard leaves first responders more vulnerable and undermines the public's expectation that officers can secure a scene safely. This Court should make clear that Ohio law stands firmly on the side of protecting first responders from foreseeable, preventable harm.

For organizations like the Fraternal Order of Police of Ohio and the Ohio Association of Professional Fire Fighters, affirming the original convictions reinforces the principle that public servants deserve the maximum protection granted to them under the law.

Respectfully submitted,

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