

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

April 14, 2025

[Cite as *04/14/2025 Case Announcements #2, 2025-Ohio-1296.*]

APPEALS NOT ACCEPTED FOR REVIEW

2024-1770. State v. Bissell.

Cuyahoga App. No. 113158, [2024-Ohio-5317](#).

Kennedy, C.J., and Hawkins, J., dissent.

Brunner, J., dissents, with an opinion.

BRUNNER, J., dissenting.

{¶ 1} I dissent from the majority’s decision to deny appellant the State of Ohio’s request for discretionary review of the Eighth District Court of Appeals’ judgment in this case. The Eighth District vacated the trial court’s judgment of conviction against appellee, Leander Bissell, for felony murder and modified the verdict to a finding of guilt on the charge of involuntary manslaughter with a predicate of reckless assault on a firefighter. 2024-Ohio-5317, ¶ 1, 33 (8th Dist.).

{¶ 2} The State asks that we consider whether it proved beyond a reasonable doubt that Bissell, who drove at a high speed to pass traffic that was stopped due to a traffic accident, knowingly caused serious physical harm or knowingly caused or attempted to cause serious physical harm with his vehicle when he struck and killed Johnny Tetrick, a firefighter who was providing aid at the scene of the accident.

{¶ 3} The facts of the case as summarized by the Eighth District include the following: One snowy evening in 2022, first responders were called to a car crash on Interstate 90 in Cleveland. The crash blocked the two left lanes of the four-lane highway, so police were

directing traffic into the two right lanes, which slowed the flow of traffic considerably. Bissell drove his vehicle around the traffic that was backed up in the right lanes, past police cars, and into the left lanes at speeds between 45 and 60 m.p.h. At that time, Tetrick was crossing the highway into the closed left lanes to remove debris from the road. Bissell hit Tetrick with his car, knocking Tetrick across three lanes of traffic. Tragically, Tetrick died from his injuries. Bissell left the scene without stopping. *Id.* at ¶ 2-3.

{¶ 4} Bissell was charged with and convicted of felony murder under R.C. 2903.02(B), among other offenses, 2024-Ohio-5317 at ¶ 4 (8th Dist.), and was sentenced to an aggregate prison term of 16 years to life, *id.* at ¶ 5. On appeal, the Eighth District vacated Bissell’s felony-murder conviction, modified the verdict to a finding of guilt on the lesser included offense of involuntary manslaughter under R.C. 2903.04(A), and remanded the matter to the trial court for resentencing. *Id.* at ¶ 33.

{¶ 5} In reviewing the case, the Eighth District did not effectively distinguish between *knowing* conduct and *reckless* conduct. The Eighth District found that Bissell had acted recklessly because he had proceeded through the traffic ““despite *knowing* that the conduct contain[ed] a risk that a certain result [was] likely.”” (Emphasis added.) *Id.* at ¶ 27, quoting *State v. Robinson*, 2007-Ohio-3646, ¶ 10 (8th Dist.). The appellate court distinguished this description of reckless conduct from ““[k]nowing conduct[, which] means that the actor acts with a degree of certainty in one’s intention that a result will occur.”” *Id.*, quoting *Robinson* at ¶ 10.

{¶ 6} The Eighth District, in effect, landed somewhere between the definitions of “knowing conduct” and “reckless conduct” when it determined that Bissell had acted recklessly. But the dissenting judge found that Bissell had acted knowingly because Bissell had knowledge of certain facts at the time of his actions: he was driving at night in snowy conditions, traffic was at a near stand-still with visible presence of police and other first responders, and the lane he was traveling in was closed with cars in that lane moving very slowly or stopping, awaiting direction from first responders. *Id.* at ¶ 42-44. Moreover, as the dissenting judge noted, body-camera footage from one of the responding officers did not show Bissell swerve or apply his brakes before hitting Tetrick. *Id.* at ¶ 45. The dissenting judge concluded that given these facts, Bissell’s conduct could not have been anything but knowing. *Id.* at ¶ 47.

{¶ 7} This case is of great interest to the public given the frequency of traffic slowdowns, along with the gravity of risks to first responders, who by the very nature of their work, are

placed in harm's way. Because the trial court's judgment was based on a firsthand view of the evidence and the three appellate-court judges' review of the trial court's judgment involved differing legal standards, not only would our review of this case provide the public and first responders with a cogent application of the law, a decision from this court would serve as a guide for other courts faced with analyzing cases often involving similar facts.

{¶ 8} It is common for drivers to become annoyed, stressed, anxious, or curious about an accident that impedes their travel on a highway. The motoring public is all too familiar with this scenario. Hitting and killing a first responder with a motor vehicle when that first responder is working the scene of a traffic accident is a horror no driver would want to face, and the grief borne by the deceased's family and community is unspeakable. For the sake of first responders and the motoring public, we should accept jurisdiction over this case and make clear to the public the difference between reckless conduct and knowing conduct. The State's appeal is an opportunity to do that, and for this reason, I strongly believe we should accept jurisdiction over this case. Because a majority of this court disagrees, I respectfully dissent.
