

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 10AP-146
	:	(C.P.C. No. 08CR-6735)
Daniel Fugate,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on November 9, 2010

Ron O'Brien, Prosecuting Attorney, and *Kimberly Bond*, for appellee.

Toki Clark, for appellant.

APPEAL from the Franklin County Court of Common Pleas

TYACK, P.J.

{¶1} Daniel Fugate is appealing from his conviction for a felony charge of receiving stolen property. He assigns three errors for our consideration:

ASSIGNMENT OF ERROR NO. 1:

A CRIMINAL DEFENDANT DOES NOT RECEIVE A FAIR JURY TRIAL WHERE A JUROR PERSONALLY KNOWS A LAW ENFORCEMENT OFFICER WHO TESTIFIES IN THE CASE.

ASSIGNMENT OF ERROR NO. 2:

THE TRIAL COURT ERRED IN OVERRULING THE DEFENDANT'S MOTION TO SUPPRESS STATEMENTS.

ASSIGNMENT OF ERROR NO. 3:

THE CONVICTION OF APPELLANT IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶2} To allow a clear understanding of the case, we address the third assignment of error first.

{¶3} On August 28, 2008, Fugate was seen driving a car which had recently been stolen. The car had a broken window. After police saw Fugate driving the car, Fugate immediately abandoned the car and threw the keys in a trash can.

{¶4} When police approached the car after Fugate abandoned it, they saw shattered glass all over the passenger seat and the interior of the passenger side of the car.

{¶5} Fugate told police that he realized the car was stolen. He claimed that he rented the car from a crack cocaine addict for \$20.

{¶6} The evidence fully supported the jury's verdict.

{¶7} The third assignment of error is overruled.

{¶8} Turning to the first assignment of error, a juror informed the trial judge that the juror knew a police officer who was about to testify. The trial judge fully explored the possibility of bias and found no bias. Defense counsel inquired of the juror if the juror could still be fair and apparently was satisfied of the results of the inquiry, because defense counsel did not object to the juror's continued service.

{¶9} Since no one objected to the juror's continued service, on appeal, we must apply a plain error standard. Under that standard, we would have to find that, but for the alleged error, the outcome of the trial would have been different. Given the evidence before the jury, outlined earlier, no different result of the trial seems even remotely possible. No plain error occurred.

{¶10} The first assignment of error is overruled.

{¶11} The second assignment of error alleges that the trial court should have suppressed as evidence Fugate's statement in which he admitted knowing at some time that he was driving a recently stolen vehicle.

{¶12} After police arrested Fugate, he was presented a written waiver of his constitutional rights. Fugate said he understood his rights and signed the form. Nothing in the record before us indicates that Fugate was, in any way, coerced into waiving his right to remain silent or any other constitutional right. Nothing in the record before us indicate that Fugate did not fully understand his rights. Therefore, nothing in the record indicates that the trial court erred in overruling the motion to suppress statements filed on Fugate's behalf.

{¶13} The second assignment of error is overruled.

{¶14} All three assignments of error having been overruled, the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

BRYANT and SADLER, JJ., concur.
