

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY**

STATE OF OHIO,
CITY OF WARREN,

Plaintiff-Appellee,

- VS -

JOHN W. MOORE,

Defendant-Appellant.

CASE NO. 2026-T-0008

Criminal Appeal from the
Warren Municipal Court

Trial Court No. 2025 CRB 001217

OPINION AND JUDGMENT ENTRY

Decided: September 28, 2026
Judgment: Affirmed

Enzo Cantalamessa, Warren City Law Director, and *Deena M. Tannert*, Assistant Law Director, 141 South Street, S.E., Warren, OH 44481 (For Plaintiff-Appellee).

Matthew S. Ziccarelli, Ziccarelli Law, 8754 Mentor Avenue, Mentor, OH 44060 (For Defendant-Appellant).

EUGENE A. LUCCI, J.

{¶1} John W. Moore appeals his conviction, after a bench trial in the Warren Municipal Court, for criminal damaging, in violation of Warren Municipal Code 541.03(a)(1) and (b). Mr. Moore raises a single assignment of error challenging both the sufficiency and the manifest weight of the evidence. Although this matter is well argued on both sides and Mr. Moore offers reasonable foundations for his arguments, we affirm based upon our deferential manifest-weight standard.

{¶2} The State filed a complaint against Mr. Moore on July 17, 2025, alleging that he knowingly caused, or created a substantial risk of physical harm to the rear driver-

side tire of a vehicle belonging to Lanite Rider, the victim, without her consent, a misdemeanor of the second degree. Mr. Moore was arraigned on August 18, 2025, and he entered a plea of not guilty. The same day, the State offered a plea agreement under which Mr. Moore would receive a recommendation of an entirely suspended sentence if he paid full restitution; Mr. Moore rejected the offer.

{¶3} A bench trial was held on January 6, 2026, before the Warren Municipal Court. The State presented the testimony of two witnesses, Officer Joseph Black of the Warren Police Department and Ms. Rider. The defense presented no witnesses, and Mr. Moore elected not to testify, invoking his Fifth Amendment right against self-incrimination.

{¶4} Officer Black testified that he was first dispatched to Douglas Avenue on an unrelated matter, a report that a man had been struck by a vehicle. While the officer was at the scene, he was redirected to a nearby Save-A-Lot to speak with a woman, later identified as Ms. Rider, who reported that her tire had been slashed. Officer Black was not present when the tire was damaged but testified, without objection, that Mr. Moore was handed a knife by Ms. Rider's ex-boyfriend and was told to stab Ms. Moore's tires.

{¶5} At Save-A-Lot, Officer Black found Ms. Rider—whom he described as frazzled and upset—standing near her vehicle, which had a flat tire with three or four puncture marks that, in his opinion, looked like knife slashes rather than nail punctures. Officer Black did not photograph the tire. On cross-examination, the officer acknowledged that he did not examine the marks for indications of age—dirt, brittleness, or otherwise—that might have shown whether the damage was recent. The officer testified, however, that, even though he did not know whether “dirt or debris” existed on the tire, he specifically stated the damage to the tire consisted of “slashes.” Moreover, a review of

Officer Black's body-cam video, which was admitted as an exhibit, demonstrates that Ms. Rider emphasized that Mr. Moore had a knife during the incident, and that Mr. Moore slashed her tires. The trial court stated, in its judgment entry, it reviewed the exhibits.

{¶6} The State played an edited portion of Officer Black's body-worn camera, skipping to selected timestamps. The portions played show Officer Black's arrival and interview at Save-A-Lot and a segment from the earlier scene on Douglas Avenue in which another officer asks an individual, shirtless and wearing blue shorts, his name; the individual responds, "John Moore." Officer Black testified that this was the same John Moore who appeared in the courtroom at trial.

{¶7} We point out that none of the video evidence depicts the act of the tire being cut. To this point, on cross-examination, Officer Black testified that there was no surveillance of the area—no officer's camera, no dash camera, no traffic or "Flock" camera, and no camera mounted on a nearby pole—that recorded the incident itself. Moreover, on cross-examination, Officer Black further testified that he did not author the police report underlying the charge; Officer Raegan Hoffman did. Officer Black testified that he never spoke with, questioned, or otherwise interacted with Mr. Moore, at the scene or at any later time, and that no statement from Mr. Moore appears anywhere in the report.

{¶8} No knife was recovered by any officer, no witness described the type of knife allegedly used, and Officer Black did not know whether anyone else had recovered one. Officer Black also acknowledged that, when he interviewed Ms. Rider, he did not separate her from the companion who was with her at the time.¹

1. Officer Black explained that separating possible witnesses "on stuff like this," is not a typical procedure, and it is not clear how failing to separate the individuals at issue would be prejudicial. The male witness's statements were not directly invoked by Officer Black, and Ms. Rider's statements were reviewable by the court, capable of being compared with her testimony, and subject to cross-examination.

{¶9} On redirect examination, Officer Black testified that his ultimate conclusion—that Mr. Moore had slashed the tire—rested on Ms. Rider’s statement, the statement of a second, unidentified man who was present at the scene, and his own observation of the marks in the tire. That second man was never identified by name at trial, did not testify, and was not subject to cross-examination. Officer Black, however, testified that Ms. Rider’s vehicle was not “able to be driven.” The officer also testified, in light of Ms. Rider’s statement, that the damage to her tire occurred during the incident at issue. And, despite her reluctance to testify against Mr. Moore, she did assert, by way of Officer Black’s body camera footage, that Mr. Moore was the individual who cut her tire.

{¶10} Ms. Rider testified that she went to Mr. Moore’s residence to drop off a bicycle seat, that her ex-boyfriend, Robert Maiden, whom she did not expect to see there, arrived and “made a scene,” and that, while she remained seated in her vehicle attempting to drive away, her tire was slashed. Asked how the tire was cut, she testified, “All I remember is somebody telling somebody else to slash my tire,” without identifying who told whom. Although she agreed on direct examination that she had been “able to actually see who did that tire slashing,” when the prosecutor later asked her directly whether she “did know that [her] friend John did it,” she answered only, “I—I believe so.” Later, the prosecutor asked whether the damaged vehicle belonged to Ms. Rider, to which Ms. Rider responded in the affirmative. The prosecutor then asked, “And you obviously have damage to that vehicle, and you’re saying [the defendant] caused it?” Ms. Rider responded, “Yeah.”

{¶11} Ms. Rider testified that she had repeatedly asked, both before and during trial, that the charges against Mr. Moore be dropped because he is her friend. She testified

that her vehicle was on Mr. Moore's property at the time, that she believed he "really didn't do anything wrong," and that she could "understand why John did what he did."

{¶12} On cross-examination, Ms. Rider could not recall the time of day the incident occurred, never gave police a description of the knife allegedly used, and testified generally that she did not "remember the whole night at all." This testimony, while confirmed by the record, must be read in relation to Ms. Rider's recognition that her statement at the time was, in her estimation, "true." She testified that she has been diagnosed with borderline personality disorder, bipolar disorder (described as "mixed, severe"), and depression; that she was not medicated for those conditions in July 2025; and that when she becomes upset, she "blacks out" and "remember[s] nothing."

{¶13} On re-direct examination, however, Ms. Rider was asked, "It was July [2025], so I wouldn't expect you to remember exactly what was said then. I can't even remember what I had for breakfast yesterday, but in that instance, would it be accurate that anything that we saw you say to an officer was the truth?" Ms. Rider responded, "Yeah." The prosecutor then asked whether she had any reason to lie to the responding officer at that moment. Ms. Rider stated, "I would say I wouldn't because - - especially like when I'm upset and I black out and I'm going off - - it's usually true. . . ." The prosecutor pointed out that the discussion with the officer was "pretty close to right after this happened, you were pretty upset[,] and you just told him what happened, right?" Ms. Rider responded, "Yeah."

{¶14} At the close of the State's case, defense counsel moved for acquittal under Crim.R. 29, arguing that no witness had described the alleged knife, that no physical or forensic evidence tied the tire's damage to that day, and that the only witness who claimed

to have observed the act could not reliably recall it. The trial court denied the motion. The defense rested without presenting evidence.

{¶15} In its oral verdict, the trial court explained that it was relying on out-of-court statements—made to Officer Black and captured on video—that it admitted as excited utterances and present sense impressions. The court found Mr. Moore guilty of criminal damaging, a misdemeanor of the second degree. In imposing sentence, the court cited Mr. Moore’s voluntary involvement in the incident and his use of a knife, a deadly weapon, and imposed the maximum sentence available for the offense: 90 days’ incarceration, a \$25 fine, and costs.² This appeal followed.

{¶16} Mr. Moore assigns the following as error:

{¶17} “The trial court erred when it found the defendant guilty beyond a reasonable doubt because the State failed to prove beyond a reasonable doubt that the defendant knowingly caused physical harm to the victim’s tire.”

{¶18} A sufficiency challenge presents a question of law: whether, viewing the evidence admitted at trial in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense proven beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. This standard does not permit a reviewing court to weigh the evidence or assess

2. When a sentence is satisfied, as here, an appeal of the judgment of conviction may be moot. However, in *Cleveland Hts. v. Lewis*, 2011-Ohio-2673, ¶ 23, the Supreme Court of Ohio determined that “a misdemeanant who contests charges at trial and, after being convicted, seeks a stay of execution of sentence from the trial court for the purpose of preventing an intended appeal from being declared moot and thereafter appeals the conviction objectively demonstrates that the sentence is not being served voluntarily, because no intent is shown to acquiesce in the judgment or to intentionally abandon the right of appeal.” See *id.* at ¶ 23. In this matter, Mr. Moore sought a stay of execution of sentence in the trial court and this court. Both motions were denied. Nevertheless, his actions demonstrate the matter is not moot.

credibility; if believed, the evidence introduced need only be legally adequate to support each element of the offense.

{¶19} A manifest-weight challenge is a different inquiry. The reviewing court sits, in effect, as a “thirteenth juror”: it examines the entire record, weighs the evidence and all reasonable inferences, considers the credibility of the 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 conviction must be reversed and a new trial ordered.” *State v. Thompkins*, 1997-Ohio-52, ¶ 25, quoting *Tibbs v. Florida*, 457 U.S. 31, 42 (1982), and *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983). That discretion is to be exercised “only in the exceptional case in which the evidence weighs heavily against the conviction.” *Thompkins* at ¶ 25, quoting *Martin* at 175. In weighing the evidence, we remain mindful of the presumption in favor of the finder of fact, particularly as to credibility, because the trial judge is best positioned to observe a witness’s demeanor, gestures, and voice inflections. See *State v. Vanover*, 2021-Ohio-3172, ¶ 33 (11th Dist.), citing *State v. Haney*, 2013-Ohio-2823, ¶ 43 (11th Dist.) (“The trier of fact is free to believe or disbelieve all or any of the testimony” and “is in the best position to take into account inconsistencies, along with the witnesses’ manner and demeanor, and determine whether the witnesses’ testimony is credible.” (Quoting *State v. Sevilla*, 2007-Ohio-2789, ¶ 13 (10th Dist.))).

{¶20} Because the conclusion that a conviction is supported by the weight of the evidence necessarily includes a finding of sufficiency, while the reverse is not true, we address the manifest-weight argument first. See, e.g., *State v. Hill*, 2017-Ohio-4434, ¶ 7 (8th Dist.) (A sufficiency analysis is subsumed under a manifest weight analysis.). A

determination that the conviction is against the manifest weight of the evidence, standing alone, results in reversal and a remand for a new trial—not a discharge, which is the remedy reserved for insufficiency as a matter of law. *State v. Brewer*, 2009-Ohio-593, ¶ 18 (when an appellate court reverses for insufficiency of the evidence, the Double Jeopardy Clause bars retrial). With that distinction in mind, we turn to the record.

{¶21} To convict Mr. Moore of criminal damaging under Warren Municipal Code 541.03(a)(1) and (b), the State was required to prove, beyond a reasonable doubt, that he knowingly caused or created a substantial risk of physical harm to Ms. Rider’s tire, without her consent. A person acts knowingly “when the person is aware that the person’s conduct will probably cause a certain result or will probably be of a certain nature.” R.C. 2901.22(B). The identity of the person who cut the tire, and that person’s awareness of what he was doing, are accordingly the facts most squarely at issue.

{¶22} On that central question, the record contains remarkably little first-hand, tested testimony. The only witness who claimed to have personally observed the tire being cut was Ms. Rider, and her account, once subjected to cross-examination, was conflicting: she could describe the act only by saying that she remembered “somebody telling somebody else” to do it, without saying who spoke or who acted, and when asked directly whether she knew that Mr. Moore did it, she retreated to “I believe so.” However, as noted, during direct examination she was asked whether Mr. Moore caused the damage, to which she replied, “Yeah.”

{¶23} We acknowledge that the specific, dramatic account credited by the trial court—that Mr. Maiden handed Mr. Moore a knife and directed him to stab the tire—does

not come from Ms. Rider's testimony at all. It comes from Officer Black, and Officer Black did not witness it either; by his own account on redirect, his conclusion was built from Ms. Rider's statement and the statement of a second man who was never identified, never called to testify, and never cross-examined.

{¶24} Officer Black's testimony regarding the incident may have involved hearsay statements. No objection, however, was leveled by the defense to the narrative and the trial court treated the testimony as excepted by the rules of hearsay; namely, the excited utterance and the present-sense-impression exceptions. No argument is asserted on appeal that counsel was ineffective for failing to object or that the potentially problematic testimony was plain error. *See State v. Johnson*, 2000-Ohio-276, ¶ 55 (plain error analysis applied where trial counsel lodged no objections to any of the statements challenged on appeal). Where no argument is offered in support of a position, it is not the appellate court's duty to advocate in favor of such a contention. *See App.R. 16(A)(7)*. *See State v. Turner*, 2021-Ohio-1921, ¶ 23 (11th Dist.) (If an argument exists to support an appeal, it is not the reviewing court's obligation to ferret out its nuances to assist an advocate.).

{¶25} While the body-camera footage does not confirm Ms. Rider's version of the event, it does not necessarily undermine her rendition either. We acknowledge the body-camera video that was played for the trial court shows an individual in blue shorts identifying himself as "John Moore" during a chaotic, multi-person disturbance on Douglas Avenue—the same disturbance in which the initial dispatch information, by the State's own exhibit, named an entirely different person ("a male named Bobby popped a female's tire"). Still, Officer Black testified that an initial narrative statement from a person calling

dispatch is not necessarily the basis of a criminal investigation nor is it the foundation for an officer's conclusion to file a charge against an individual.

{¶26} We recognize that the video establishes Mr. Moore was present and was identified by name. The victim, albeit reluctantly, testified she observed Mr. Moore cut her tire. This, notwithstanding her stated mental health issues, and where she confirmed her recollection was fairly strong at the time Officer Black interviewed her, is credible evidence of Mr. Moore's actions.

{¶27} We emphasize the deference owed to the trial court's credibility findings, particularly as to a witness who testified in person and whom the court observed to be emotional and, at times, tearful. But that deference is not unlimited, and it is most appropriately applied where the witness's own testimony, taken as a whole, supports the verdict reached. Here, the trial court and the State both treated Ms. Rider's reluctance to see Mr. Moore prosecuted as evidence that bolstered her credibility—reasoning that a witness with no motive to fabricate blame is more likely to tell the truth. That inference is reasonable and entitled to some deference. That inference, however, is not the only reasonable manner of treating Mr. Rider's reluctance and concerns. After all, Ms. Rider testified to having issues with her memory and, although she confirmed Mr. Moore cut her tire, she also testified she only “believed” he was the actor who cut the tire.

{¶28} Nevertheless, Ms. Rider testified Mr. Moore caused the damage to her vehicle. This testimony is confirmed by Officer Black's body cam where, after his response to the Save-A-Lot parking lot, Ms. Rider directly states Mr. Moore stabbed her tire such that it was not drivable. Also, Ms. Rider testified she had no reason to lie to Officer Black during the interview and that her recollection, despite her professed mental

illness, would be “usually true.” Although she did not believe Mr. Moore should be prosecuted, Ms. Rider did not deny Mr. Moore was the individual who cut, stabbed, or slashed her tire. She specifically testified that he did so.

{¶29} Further, we acknowledge that Officer Black did not question Mr. Moore regarding the incident. This, however, does not have an impact on the sufficiency or the weight of the evidence upon which the State relied to obtain its conviction. The State offered evidence that, after he was told to cut the victim’s tire, Mr. Moore possessed a knife and did so. There was no indication that the act was an accident, was negligent, or even reckless. Officer Black offered testimony that Mr. Moore acted knowingly, i.e., he acted with the awareness that his voluntary actions would likely cause the result of cutting the victim’s tire.

{¶30} We accordingly hold that Mr. Moore’s conviction is not against the manifest weight of the evidence. Because that determination is dispositive, we do not separately reach the sufficiency argument. Mr. Moore’s assignment of error is without merit.

{¶31} The judgment of the trial court is affirmed.

MATT LYNCH, P.J.,

JOHN J. EKLUND, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignment of error is without merit. It is the judgment and order of this court that the judgment of the Warren Municipal Court is affirmed.

Costs to be taxed against appellant.

JUDGE EUGENE A. LUCCI

PRESIDING JUDGE MATT LYNCH,
concur

JUDGE JOHN J. EKLUND,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY
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A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
