

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BROWN COUNTY

STATE OF OHIO,	:	CASE NO. CA2025-09-016
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
JACOB K. CARLIER,	:	9/14/2026
Appellant.	:	
	:	

CRIMINAL APPEAL FROM BROWN COUNTY COURT OF COMMON PLEAS
Case No. CRI2023-2098

Zachary A. Corbin, Brown County Prosecuting Attorney, and Robert F. Benintendi, Assistant Prosecuting Attorney, for appellee.

Craig M. Jaquith, Assistant State Public Defender, for appellant.

OPINION

PIPER, J.

{¶ 1} Appellant, Jacob Carlier, appeals his conviction in the Brown County Court of Common Pleas following a jury trial. For the reasons set forth below, we affirm.

I. Factual and Procedural Background

{¶ 2} In late 2022, Joan Ballbach, the step-grandmother of Jacob Carlier, took him into her home in Fayetteville, Ohio when no other family member would, knowing that he struggled with drug abuse. Initially the living arrangement went well and Carlier obtained a full-time job at a nearby feed supplier. However, after several weeks Carlier quit his job and began spending his time visiting local bars. In October 2022, Carlier asked to borrow Ballbach's truck to go to the grocery store, but instead drove it to St. Louis, Missouri. The truck ended up impounded and Ballbach was forced to pay \$2,000 to have it towed back to Fayetteville. Despite this, Ballbach allowed Carlier to return home, hoping he would find another job.

{¶ 3} Carlier then began using Ballbach's home computer to ostensibly look for new employment. Soon after, Ballbach began receiving loan rejection letters and phone calls asking if she had recently purchased a car or car parts. In January 2023, Ballbach received a notice from her financial advisor that her address had been changed to the Gateway Bar, one of Carlier's usual hangouts, and that her phone number on the account had been changed to Carlier's cell phone number.

{¶ 4} In February 2023, Ballbach received notices that applications for a credit card and a mortgage had been rejected, even though she had not applied for either. Around the same time, she began finding her personal papers and belongings in places where she had not left them. In a workbench and in a bag under a refrigerator, Ballbach discovered her passport, Social Security card, birth certificate, jewelry, a blank check from her checking account, and the title to her truck. Ballbach also learned that a brand-new generator she had been storing in the basement had been pawned under the name "Jacob Kaplyn" (Kaplyn being Carlier's middle name). When she checked her computer, she discovered that her will had been modified to name Carlier as the beneficiary of her

estate.

{¶ 5} Following these discoveries, Ballbach contacted the Brown County Sheriff's Office. A deputy responded to her home and advised her to ask Carlier to move out. Ballbach followed that advice, and Carlier agreed to leave by March 1, 2023. During the interim, however, Carlier's attitude toward Ballbach changed. He became "disrespectful and mean," removed Ballbach's landline telephone, and brought approximately ten cans of gasoline into the basement without any explanation.

{¶ 6} On March 1, 2023, Carlier gathered his belongings to move out and Ballbach drove him to his brother's house to drop them off. Then for the first time, Carlier told Ballbach that he needed to attend a meeting with Malaki Renchen in Georgetown, Ohio. The two stopped for lunch before continuing to the meeting. After lunch, however, Carlier said he had left some "homework" for the meeting at Ballbach's home, and Ballbach agreed to drive him back to retrieve it. When they arrived, Carlier jumped out of the truck and said, "I'll be right back." However, Ballbach followed Carlier inside to get a book to read while he attended the meeting. Carlier appeared surprised and suggested that she use the bathroom because she had drunk a large iced tea at lunch. Ballbach agreed and was in the bathroom for approximately five minutes while Carlier went downstairs to the basement. When she came out, Carlier was straddling the threshold of the front door, excitedly urging her, "Hurry. Let's go. Let's go." The two then left for the meeting.

{¶ 7} Carlier's meeting with Renchen lasted only two to five minutes. Renchen later testified that he had not requested any homework and that Carlier did not present any. After the meeting, Ballbach and Carlier returned to Ballbach's home, where the house was already engulfed in flames. Fire investigators later determined that fires had been intentionally set in two locations, on the couch in the basement and at the top of the

stairs near the basement door.

{¶ 8} On June 5, 2023, the Brown County Grand Jury returned a single-count indictment charging Carlier with aggravated arson. After discovery, Carlier filed a motion in limine seeking to exclude other-acts evidence concerning: (1) his community control status; (2) his drug use; and (3) documents and testimony related to his alleged attempts to steal Ballbach's identity. The trial court excluded testimony regarding Carlier's community control status but permitted evidence of his drug use and identity-theft conduct. The court found that evidence admissible to explain how Carlier came to live with Ballbach, and show his "motive and intent, absence of mistake or accident, or his scheme or plan or system" in committing the offense. The case proceeded to a jury trial in August 2025, and the jury found Carlier guilty.

{¶ 9} On appeal, Carlier raises two assignments of error for our review.

II. Legal Analysis

{¶ 10} Assignment of Error No. 1:

THE TRIAL COURT MISAPPLIED EVIDENCE RULE 404(B),
AND DENIED MR. CARLIER A FAIR TRIAL, BY ALLOWING
IMPROPER AND HIGHLY PREJUDICIAL OTHER-ACTS
TESTIMONY.

{¶ 11} In first assignment of error, Carlier argues that the admission of evidence regarding his illegal drug activity was inflammatory, prejudicial, and was only used to show he had a propensity to commit crimes. Further, Carlier asserts the trial court only permitted evidence of his drug activity to explain how he came to live with Ballbach but argues this was unnecessary because this was not a material issue in dispute between the parties. We disagree with Carlier and find that this evidence was used to establish Carlier's motive to burn down the house.

{¶ 12} "The admissibility of other-acts evidence pursuant to Evid.R. 404(B) is a

question of law" that is reviewed de novo. *State v. Hartman*, 2020-Ohio-4440, ¶ 22. However, some aspects of the analysis require employment of the trial court's discretion, such as addressing whether the evidence is prejudicial. *Id.* at ¶ 30. Thus, we apply a mixed standard of review when addressing the admission of other-acts evidence. *Id.* While a de novo review requires this court to review the matter anew, an abuse of discretion standard requires us to determine whether the trial court's decision was unreasonable, arbitrary, or unconscionable. *State v. Baker*, 2021-Ohio-272, ¶ 27 (12th Dist.).

{¶ 13} "Evid.R. 404(B) categorically prohibits evidence of a defendant's other acts when its only value is to show that the defendant has the character or propensity to commit a crime." *State v. Smith*, 2020-Ohio-4441, ¶ 36. "Other-acts evidence may, however, be admissible for another non-character-based purpose, such as 'motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or [lack of] accident.'" *Id.*, quoting Evid.R. 404(B)(2). "The key is that the evidence must prove something other than the defendant's disposition to commit certain acts." *Hartman* at ¶ 22. The other-acts evidence "is admissible when the evidence is probative of a separate, nonpropensity-based issue." *Id.*

{¶ 14} The Ohio Supreme Court has articulated a three-part analysis for the admission of other-acts testimony. *State v. Fannin*, 2021-Ohio-2462, ¶ 17 (12th Dist.), citing *State v. Williams*, 2012-Ohio-5695, ¶ 20. According to this analysis, the evidence must meet the following criteria to be admissible (1) it must be relevant, (2) it must be introduced for a purpose other than proving propensity, and (3) its probative value must not be substantially outweighed by the risk of unfair prejudice. *Fannin* at ¶ 17.

Relevance

{¶ 15} "Evidence is relevant if it has 'any tendency to make the existence of any

fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." *State v. Tunstall*, 2020-Ohio-5124, ¶ 34 (12th Dist.), quoting Evid.R. 401. "In the Evid.R. 404(B) context, the relevance examination asks whether the proffered evidence is relevant to the particular purpose for which it is offered, as well as whether it is relevant to an issue that is actually in dispute." *Smith* at ¶ 37.

{¶ 16} Motive is generally relevant in criminal trials, even though it is not an element of the offense the state must prove to secure a conviction. *State v. Blankenburg*, 2012-Ohio-1289, ¶ 82 (12th Dist.), *overruled in part on other grounds by State v. Scott*, 2020-Ohio-3230 (12th Dist.). "Motive" is defined as the mental state that induces an act, the moving power that impels action for a definite result. *Id.* "Unless readily evident from the accused's conduct, motive is a part of the narrative of the state's theory of its case against the accused seeking to prove his criminal liability." *Id.*

{¶ 17} Being asked to move out, by itself, is not something that ordinarily motivates someone to burn down their former host's house. Here, the evidence of Carlier's drug use was relevant for providing necessary context as to why he was living with his step-grandmother, why he attempted to steal from her, why he was finally asked to move out, and why he then developed his abrupt and disgruntled attitude toward her; this was all for the ultimate purpose of establishing his motive in setting fire to the house—retaliation.

Purpose

{¶ 18} Evidence of Carlier's history of drug use was offered for a purpose other than proving propensity: it proved his motive for burning down Ballbach's house was retaliation. See *State v. Hare*, 2018-Ohio-765, ¶ 44 (2d Dist.) (finding other-acts evidence of defendant's drug use was not elicited to prove character, but instead to show defendant's motive was retaliation). Carlier came to live with Ballbach because he

struggled with drug abuse. While living with her he began visiting bars, demonstrated increasingly erratic behavior, and began attempting to steal from Ballbach to support his substance abuse. Because Carlier was attempting to steal from her, Ballbach asked him to move out. In retaliation for being kicked out of her house and cut off from the resources he was attempting to steal, Carlier burned down Ballbach's home.

Probative Value and Unfair Prejudice

{¶ 19} Upon reviewing the testimony regarding Carlier's drug use, we find that its probative value was not outweighed by the risk of unfair prejudice. Testimony taken from Ballbach, the fire investigator, and Carlier's brothers on direct examination confirmed that Carlier's drug problems were still ongoing and provided a motive for retaliation against Ballbach.

{¶ 20} On cross-examination, the defense elicited more details and opinions regarding Carlier's drug use, going so far as to ask Carlier's brother, "[s]o you believe based on him previously using drugs, that he must have burned your grandma's house down?" It appears that the defense's strategy was to undermine the testimony as to Carlier's motive and instead imply that the State's witnesses only believed Carlier had burned down the house because he was a drug addict. To the extent any improper propensity evidence was sought, it was by the defense and such error was invited. Under the doctrine of "invited error," an appellant is barred from attacking a judgment because of an error for which the appellant was responsible. *Hare* at ¶ 45.

{¶ 21} Therefore, we find the evidence of Carlier's drug use was relevant to establishing his motive, was introduced for a purpose other than proving propensity, and its probative value was not outweighed by the risk of unfair prejudice.

{¶ 22} Carlier's first assignment of error is overruled.

{¶ 23} Assignment of Error No. 2:

PROSECUTORIAL MISCONDUCT DENIED MR. CARLIER A
FAIR TRIAL AND DUE PROCESS OF LAW.

{¶ 24} In his second assignment of error, Carlier argues the State engaged in prosecutorial misconduct when it framed the case in terms of "betrayal" and told the jurors they would be "angered" and "disgusted" during its opening and closing statements, thereby inflaming the jury to Carlier's prejudice. We disagree.

{¶ 25} For his conviction to be reversed based on prosecutorial misconduct, Carlier must prove the prosecutor's comments were improper and that those comments prejudicially affected his substantial rights. *State v. Shearer*, 2018-Ohio-1688, ¶ 68 (12th Dist.), citing *State v. Elmore*, 2006-Ohio-6207, ¶ 62. In making such a determination, the focus is upon the fairness of the trial, not upon the culpability of the prosecutor. *State v. Gray*, 2012-Ohio-4769, ¶ 57 (12th Dist.). A finding of prosecutorial misconduct will not be grounds for reversal unless the defendant can demonstrate that he has been denied a fair trial because of the prosecutor's prejudicial remarks. *State v. Smith*, 2017-Ohio-7540, ¶ 29 (12th Dist.).

{¶ 26} It is undisputed that Carlier's trial counsel did not object to the prosecutor's comments made during the State's opening and closing, thereby waiving all but plain error. *State v. Warwick*, 2018-Ohio-139, ¶ 30 (12th Dist.). Pursuant to Crim.R. 52(B), "plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court." Plain error does not exist unless the error is obvious and, but for the error, the outcome of the trial would have been different. *State v. Yanez*, 2017-Ohio-7209, ¶ 23 (12th Dist.). Notice of plain error must be taken with utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice.

State v. Baldev, 2005-Ohio-2369, ¶ 12 (12th Dist.). Prosecutorial misconduct may rise to the level of plain error only if it is clear from the record that the defendant would not have been convicted in the absence of the improper comments. *State v. Isreal*, 2011-Ohio-1474, ¶ 43 (12th Dist.).

{¶ 27} Here, in the State's opening statement, the prosecutor remarked:

What you're gonna hear, over the next few days, is that this case really boils down to betrayal, plain and simple. It's going to boil down to really the ultimate act of betrayal. Betrayal by this man, this Defendant, against the one person in the world, the one person in this world that continued to show him love and support, his grandmother, Joan Ballbach. That's—that's what it—it really all is going to boil down to. And you, I submit, will be troubled, angered, disgusted by what you hear during the course of the next two, three days.

The State followed up in its closing:

I told you that—that this case that you were going to hear is about betrayal. Said it was gonna be about betrayal, in fact, the ultimate betrayal of—of one person against someone else who—who loved them. And that's exactly what you've heard over these last few days. Plain and simple. I told you that the things you were gonna hear would trouble you, probably anger you, and—and, in fact, would disgust you. And I submit that that's what happened during this trial.

{¶ 28} We find that the prosecutor's remarks merely conveyed the State's theory of the case that Carlier retaliated against Ballbach when he was asked to move out and prevented from stealing from her to support his drug problem. "While a prosecutor may not make excessively emotional arguments tending to inflame the jury's sensibilities, the prosecutor is entitled to some latitude in making a closing argument to the jury." *State v. Tibbetts*, 92 Ohio St.3d 146, 169 (2001). "Realism compels us to recognize that criminal trials cannot be squeezed dry of all feeling." *State v. Keenan*, 66 Ohio St.3d 402, 409 (1993). "Betrayal" was a fair characterization of Carlier's retaliatory arson. See *State v. Madden*, 2002-Ohio-3722, ¶ 26 (10th Dist.) (finding prosecutor's remark that defendant

"betrayed" victim's trust was not prosecutorial misconduct). While "anger" and "disgust" are emotional reactions to betrayal, these remarks were not "so inflammatory as to render the jury's decision a product solely of passion and prejudice," and do not amount to prosecutorial misconduct. See *State v. Penland*, 2023-Ohio-806, ¶ 58 (8th Dist.) (prosecutor's insinuation that the jury should be "angry" was not prosecutorial misconduct). We do not find error in the prosecutor's remarks, much less plain error.

{¶ 29} Carlier's second assignment of error is overruled.

III. Conclusion

{¶ 30} We find the trial court did not err in permitting testimony regarding Carlier's drug use and the prosecutor's remarks during the opening and closing statements did not constitute prosecutorial misconduct. Carlier's two assignments of error are overruled.

{¶ 31} Judgment affirmed.

HENDRICKSON, P.J., and SIEBERT, J., concur.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed

It is further ordered that a mandate be sent to the Brown County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Robert A. Hendrickson, Presiding Judge

/s/ Robin N. Piper, Judge

/s/ Melena S. Siebert, Judge