

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

VILLAGE OF SARDINIA,	:	CASE NO. CA2026-01-001
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
PAUL J. BROWN,	:	10/26/2026
Appellant.	:	
	:	

CIVIL APPEAL FROM BROWN COUNTY MUNICIPAL COURT
Case No. TRD25003566

Thomas L. Mayes, for appellee.

Paul J. Brown, pro se.

OPINION

SIEBERT, J.

{¶ 1} Appellant, Paul Jeffrey Brown, appeals his conviction in Brown County Municipal Court for texting while driving. On appeal, Brown argues the trial court incorrectly applied Ohio law to the facts of the case, did not recognize issues relating to

Chief Perry's credibility, did not consider Brown's testimony, and did not allow Brown to present exculpatory evidence at trial. We overrule Brown's assignments of error. While the trial court misstated the applicable law at trial, it correctly concluded none of the exceptions to texting while driving applied. Because the testimony at trial conflicted, the trial court did not err when it relied upon Chief Perry's testimony in finding Brown guilty. Brown's allegations of misconduct and disciplinary actions involving Chief Perry after Brown's trial have no impact on the trial court's credibility determinations. Further, Brown never offered any evidence at trial supporting his contention he stopped at the traffic light while recording. Therefore, we affirm the trial court's judgment.

Background and Applicable Law

{¶ 2} On August 6, 2025, Chief Brian Perry of the Sardinia Police Department slowed down to stop at a traffic light on a roadway located within the Village of Sardinia. As he slowed down, he looked to his left and observed Brown passing by him in a black vehicle. As Brown passed by, Chief Perry noticed Brown pointing a phone camera at him. The light turned green shortly after, and Chief Perry initiated a traffic stop. During the traffic stop, Brown admitted that he recorded Chief Perry.

{¶ 3} The Village charged Brown with texting while driving, in violation of O.B.C. 72.131(A), which is identical to R.C. 4511.204. This unclassified misdemeanor offense, provides: "[n]o person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, holding, or physically supporting with any part of the person's body an electronic wireless communication device." R.C. 4511.204(A). The statute also states "Division (A) of this section does not apply" when any of the listed exceptions have been satisfied. R.C. 4511.204(B). The relevant exception on appeal is "when the person's motor vehicle is in a stationary position and . . . at a highway traffic signal that is currently directing traffic to stop . . ." R.C.

4511.204(B)(3). Highway traffic signals include traffic control signals "placed at an intersection . . . that requires conflicting traffic to be directed to a stop and permitted to proceed in an orderly manner." R.C. 4511.01(RR), (MMM).

{¶ 4} At Brown's bench trial, Chief Perry testified to the facts stated above. However, Brown testified he was stopped at the stoplight when he recorded Chief Perry and that members of the State Highway Patrol informed him that being stopped at a traffic light was an exception to the offense of texting while driving. But Brown neither proffered nor entered into the record any evidence in support in his defense beyond his own testimony.

{¶ 5} Before finding Brown guilty of texting while driving, the trial court stated that Brown had been "misadvised" by the Ohio Highway Patrol regarding the exceptions to the offense of texting while driving. The trial court also stated, "[n]one of the exceptions indicate that you can hold . . . a wireless communications device . . . if you're stopped at a traffic light . . . So, it is a violation for you at any point while you're operating a motor vehicle to be holding a wireless electronic communications device." The trial court also noted in its judgment entry that none of the statutory exceptions to the offense of texting while driving applied.

{¶ 6} The trial court sentenced Brown to a \$150 fine, 2 points on his license, and court costs, including the cost of the trial. However, the court gave Brown the option to complete a distracted driving course online within 90 days of the ruling in exchange for the remittance of the fine and points. There is no evidence in the record that shows Brown completed this course within 90 days.

{¶ 7} Brown appealed, asserting four assignments of error for our review. The Village filed no response to Brown's appeal.

Brown's Four Assignments of Error

{¶ 8} Brown asserts the court failed to (1) apply the third exception for the offense of texting while driving because Brown testified his vehicle was stopped at the traffic light when he recorded the video in question, (2) recognize that Chief Perry's testimony was conflicting and not truthful; (3) acknowledge that Chief Perry has a protection order against him and is on administrative leave because of allegations of "unlawful arrests," and (4) allow him to "prove with my picture in [his] phone that [he] was not moving when [he] took the picture of [Chief Perry] in his truck."

{¶ 9} Brown fails to support his assignments of error with any citation to the record or to any relevant legal authorities beyond the language of the offense statute. This is contrary to App.R. 16(A)(7) (requiring an appellant's brief to contain "[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons stated in support of the contentions, with citations to authorities, statutes, and parts of the record on which appellant relies"). When a party fails to satisfy the requirements under this rule, an appellate court "may disregard an assignment of error." *Lazor v. Souders*, 2024-Ohio-774, ¶ 25 (12th Dist.), citing App.R. 12(A)(2). It is well established the role of appellate courts is to serve as neutral adjudicators. *State v. Bullock*, 2026-Ohio-693, ¶ 14 (12th Dist.). It is not the role of an appellate court to develop or "root out" an argument that could support an assigned error, even if one exists. *Lebanon v. Ballinger*, 2015-Ohio-3522, ¶ 27 (12th Dist.). Stated differently, an appellate court has no obligation to search the record for evidence supporting the appellant's argument regarding the alleged error. *Rolph v. Rolph*, 2026-Ohio-3005, ¶ 66 (12th Dist.).

{¶ 10} Even if we considered Brown's assignments of error in the interest of justice, they do not merit reversing his conviction. Brown is correct the trial court erred when it

stated "[n]one of the exceptions [to the offense of driving while texting] indicate that [Brown] can hold . . . a wireless communications device . . . [while] stopped at a traffic light." The plain language of the offense statute states the prohibition against using or holding a wireless electronic communication device while operating a motor vehicle "does not apply" if a person using the device is "in a stationary position and . . . at a highway traffic signal that is currently directing traffic to stop." R.C. 4511.204.

{¶ 11} However, while the trial court misstated the applicable law, the record supports the trial court's conclusion that no exception applied in this case. Brown testified he was stopped at the light when he used his phone to record Chief Perry, but Chief Perry testified Brown drove past him when using the cell phone. In finding Brown guilty, the trial court—the trier of fact—found Chief Perry's testimony more credible. Ohio law recognizes the weight given to evidence and the credibility of witnesses is determined by the trier of fact because it "has the best opportunity to view the demeanor, attitude, and credibility of each witness, something that does not translate well on the written page." *Davis v. Flickinger*, 77 Ohio St. 3d 415, 418.

{¶ 12} Brown contends that alleged misconduct by Chief Perry which resulted in him being put on administrative leave after the trial proves he did not testify honestly. Brown further accuses Chief Perry of targeting Brown personally, "in an effort to raise money for the village and to cut deals with folks that are stopped." But this Court does not have discretion to consider or rule on facts that were not already presented to the trial court. *State v. Ishmail*, 54 Ohio St. 2d 402, 405 (1978).

{¶ 13} Brown also argues the trial court "did not allow" him to present a picture in his phone which would demonstrate his vehicle was not moving when he took the picture of Chief Perry. But the record does not support Brown's argument. Brown never attempted to proffer as evidence any video from his phone during the trial. Brown cannot argue the

trial court "did not allow" him to provide proof that he never offered to the court to consider.

{¶ 14} We overrule all four of Brown's assignments of error.

{¶ 15} Judgment affirmed.

PIPER, P.J. and DONOVAN, J., concur.

Donovan, J., retired, of the Second Appellate District, sitting by assignment of the Chief Justice, pursuant to Section 6(C), Article IV of the Ohio Constitution.

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 Municipal Court 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/ Robin N. Piper, Presiding Judge

/s/ Melena S. Siebert, Judge

/s/ Mary E. Donovan, Judge