[Cite as *State v. Robinson*, 2026-Ohio-4424.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

WARREN COUNTY

STATE OF OHIO,	:	
		CASE NO. CA2026-01-001
Appellee,	:	
		OPINION AND
vs.	:	JUDGMENT ENTRY
		11/9/2026
JONATHAN ROBINSON,	:	
Appellant.	:	
	:	

CRIMINAL APPEAL FROM LEBANON MUNICIPAL COURT
Case No. CRB2500421

Kelly M. McKoy, Lebanon City Prosecutor, for appellee.

Smith & Webb, Attorney, and Chase T. Kirby, for appellant.

O P I N I O N

M. POWELL, J.

{¶ 1} Appellant, Jonathan Robinson, appeals his conviction in the Lebanon Municipal Court for resisting arrest.

Facts and Procedural History

{¶ 2} On August 1, 2025, Lebanon Police Officer Thomas Byrnes was working on duty as a patrol officer. At the beginning of his shift, he requested from dispatch a "zip list" containing the names of individuals subject to active warrants within Lebanon, Ohio. Appellant's name was included in the list. Officer Byrnes searched the LEADS database which confirmed there was an arrest warrant for appellant.

{¶ 3} Sometime during his shift, Officer Byrnes went to appellant's address, a two-story, multiple-apartment residence. It was nighttime. Appellant's apartment was on the second floor, and the light was on inside. Officer Byrnes stood outside the residence for five to ten minutes, observing appellant's opened window. Upon confirming appellant's presence inside the apartment, the officer called his name. Appellant looked at Officer Byrnes who told him to come to the door. Officer Byrnes then proceeded to appellant's apartment door. Once there, the officer repeatedly knocked, repeatedly called appellant's name, and ordered him to come to the door. During that time, the officer heard appellant approach the door and engage the lock at the bottom of the door. In the meantime, another police officer arrived on the scene as back-up. After appellant failed to respond to Officer Byrnes' knocking and calls for him, the officer forced entry by kicking the door open.

{¶ 4} Upon the officers' entry, appellant can be heard, inquiring, "What's going on?" The back-up officer responded, "Police department." Then, Officer Byrnes responded, "Police." Officer Byrnes observed appellant standing in a hallway outside a bedroom. Appellant once again inquired, "What's going on?" The back-up officer advised there was a warrant for his arrest. Appellant asked to see it. Officer Byrnes commanded

appellant to come to him but appellant retreated into the bedroom and slammed the bedroom door behind him. Officer Byrnes kicked the bedroom door open and pursued appellant. A physical struggle followed between appellant and the officers eventually resulting in appellant's arrest. Upon being arrested, appellant acknowledged he was aware there was a warrant for his arrest. The entire episode was recorded by Officer Byrnes' body cam which was admitted into evidence.

{¶ 5} As a result of the foregoing, appellant was charged with resisting arrest in violation of R.C. 2921.33(A). The matter proceeded to a jury trial on November 5, 2025. Officer Byrnes was the only witness to testify on behalf of the State. At the close of the State's case, appellant moved for a Crim.R. 29 judgment of acquittal. The trial court denied the motion. Appellant did not testify or present evidence on his own behalf. Following the trial court's instructions to the jury, appellant renewed his Crim.R. 29 motion for acquittal. The trial court denied the motion. The jury returned a verdict finding appellant guilty as charged.

{¶ 6} Appellant now appeals his conviction, raising two assignments of error.

Sufficiency of the evidence

{¶ 7} Assignment of Error No. 1:

> THE TRIAL COURT ERRED IN DENYING ROBINSON'S CRIMINAL RULE 29 MOTION FOR ACQUITTAL FOR INSUFFICIENCY OF THE EVIDENCE.

{¶ 8} Appellant argues that his conviction for resisting arrest was not supported by sufficient evidence, and thus the trial court erred by denying his Crim.R. 29(A) motion for judgment of acquittal, because the State failed to prove his arrest was lawful.

{¶ 9} Crim.R. 29(A) provides that "[t]he court on motion of a defendant or on its own motion, after the evidence on either side is closed, shall order the entry of a judgment

of acquittal . . . if the evidence is insufficient to sustain a conviction of such offense or offenses." An appellate court reviews the denial of a Crim.R. 29(A) motion under the same standard as that used to review a sufficiency-of-the-evidence claim. *State v. Workman*, 2017-Ohio-8638, ¶ 19 (12th Dist.).

{¶ 10} "When reviewing the sufficiency of the evidence underlying a conviction, an appellate court examines the evidence to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt." *State v. Madden*, 2024-Ohio-2851, ¶ 31 (12th Dist.). "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus.

{¶ 11} Appellant was convicted of resisting arrest in violation of R.C. 2921.33(A), which provides that "[n]o person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another." As evidenced by the plain language of the statute, "the crime of resisting arrest as defined in . . . R.C. 2921.33(A) includes, as an essential element, a lawful arrest." *Middletown v. Hollon*, 2004-Ohio-1502, ¶ 37 (12th Dist.). Therefore, appellant could be convicted of resisting arrest only if his underlying arrest was lawful. *Id.*

{¶ 12} Appellant argues that his arrest was unlawful because Officer Byrnes failed to identify himself and announce his intention to arrest appellant pursuant to the outstanding arrest warrant before he forcibly entered appellant's apartment in violation of the "knock and announce" rule.

{¶ 13} Nothing in the record suggests that the arrest warrant was not valid. "But

despite the apparent validity of the warrant, in executing it, the police were expected to comply with the 'knock and announce' rule, which predates the United States Constitution but is reflected in the Fourth Amendment." *State v. Oliver*, 2007-Ohio-372, ¶ 9. Ohio codified the "knock and announce" rule in R.C. 2935.12, which provides in pertinent part that when executing an arrest warrant, the police officer "executing the warrant . . . may break down an outer or inner door or window of a dwelling house or other building, if, after notice of his intention to make the arrest or to execute the warrant or summons, he is refused admittance . . . "

{¶ 14} The "knock and announce" rule requires police officers executing an arrest warrant at a residence "'to first knock on the door, announce their purpose, and identify themselves *before* they forcibly enter the home.'" (Emphasis added.) *State v. Bembry*, 2017-Ohio-8114, ¶ 19, quoting *Oliver* at ¶ 9. R.C. 2935.12(A) "provides the same basic rule: police executing a warrant must give notice of their presence and purpose and may enter a house only after refusal of admission." *Bembry* at ¶ 19. "It is fundamental in our constitutional system of law that the requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application." *State v. Davies*, 1986 Ohio App. LEXIS 5215, *3 (1st Dist. Jan. 8, 1986), citing *Sabbath v. United States*, 391 U.S. 585 (1968), and *Miller v. United States*, 357 U.S. 301 (1958).

{¶ 15} R.C. 2935.12(A) requires that a refusal be received before officers may break in. "Courts have recognized that silence constitutes an implied refusal of admittance." *State v. Hunter*, 2003-Ohio-4204, ¶ 14 (2d Dist.). "[F]orcible entry prior to a refusal may be justified by exigent circumstances where it appears that evidence 'can and

will be destroyed on short notice, or that compliance could place the officers in peril of great bodily harm.'" *Id.* at ¶ 15.

{¶ 16} Officer Byrnes' body cam and his testimony at trial unequivocally show that he neither identified himself nor gave notice of his purpose, i.e., announce he intended to execute an arrest warrant, before he forcibly entered appellant's apartment. The record also unequivocally shows that it was not until after Officer Byrnes and the back-up officer were inside the apartment that they identified themselves as police officers and that the back-up officer gave notice of their purpose. Indeed, Officer Byrnes conceded on cross-examination that he neither identified himself as a police officer nor advised appellant he was there to execute an arrest warrant prior to forcibly enter appellant's apartment, and that it was not until he was inside the apartment that he announced his identity and purpose. Additionally, no evidence was presented of exigent circumstances. As Officer Byrnes' forced entry violated the "knock and announce" rule and R.C. 2935.12(A), his entry into appellant's apartment and appellant's subsequent arrest were unlawful. *State v. Campana*, 112 Ohio App.3d 297, 303-304 (11th Dist. 1996).

{¶ 17} In response to appellant's argument, the State cites *Hudson v. Michigan*, 547 U.S. 586 (2006), and *State v. Robinson*, 2017-Ohio-8273 (4th Dist.), for the proposition that a violation of the "knock and announce" rule does not invoke the exclusionary rule and therefore "does not render the arrest unlawful for purposes of R.C. 2921.33(A)," the resisting arrest statute. The State asserts that "[t]he proper remedy for any knock-and-announce violation is a civil action for damages, not suppression." The State makes no other argument that Officer Byrnes complied with the "knock and announce" rule and R.C. 2935.12(A).

{¶ 18} In *Hudson*, as followed by *Robinson*, the United States Supreme Court held that even if the police violate the "knock and announce" rule before executing a *search* warrant, the Fourth Amendment does not require suppression of the evidence derived from the ensuing search. The Supreme Court found that the "knock and announce" rule and the exclusionary rule vindicate different interests. Specifically, the exclusionary rule vindicates the Fourth Amendment's prohibition against the unlawful warrantless search and seizure of evidence, whereas the "knock and announce" rule vindicates the protection of human life and limb, property, privacy, and dignity. *Hudson* at 591-594.

{¶ 19} Both *Hudson* and *Robinson* involved a search warrant and "whether violation of the 'knock-and-announce' rule required the suppression of all evidence found in the search." *Id*. at 588. But a search is not at issue here; appellant's arrest is. Hence, the case at bar does not involve the exclusionary rule but rather the lawfulness of appellant's arrest as an element of R.C. 2921.33(A). *Hudson* and *Robinson* are therefore not applicable.

{¶ 20} The State asserts that appellant's arrest was lawful because it was executed pursuant to a valid arrest warrant. The warrant for appellant's arrest was sufficient to authorize the police officers to enter appellant's apartment to effect the arrest. *State v. Bollheimer*, 2020-Ohio-60, ¶ 20 (12th Dist.); *Payton v. New York*, 445 U.S. 573 (1980). However, the "knock and announce" rule and R.C. 2935.12(A) are concerned not with the right to enter a person's home to effect an arrest but with the manner of entry. *State v. Klein*, 1985 Ohio App. LEXIS 6349, *38-39 (6th Dist. Apr. 12, 1985) (holding that while a warrant gives an officer a right of entry and therefore satisfies the "authority-of-law" principle, the knock and announce rule augments a different, though closely related,

principle, which is that one has the right to know the identity and purpose of the person advancing upon one's doorstep. This principle goes to the separate issue of the manner of entry). "Violation of the 'knock and announce' rule is not merely a statutory violation; it is a violation of the reasonableness requirement of the Fourth Amendment." *State v. Taylor*, 135 Ohio App.3d 182, 186 (12th Dist. 1999).

{¶ 21} The "knock and announce" rule and R.C. 2935.12(A) both mandate police officers to give notice of their identity and purpose before they forcibly enter a residence. Stated differently, proper notice of identity and purpose must precede forcible intrusion for the rule and statute to be complied with. Here, that appellant may have known there was a warrant for his arrest and suspected that Officer Byrnes' presence in the building was to execute the arrest warrant does not excuse noncompliance with the rule and the statute and satisfies neither. Likewise, that appellant knew Officer Byrnes prior to this arrest or may have seen him outside some time prior to the forced entry is not relevant to knock and announce compliance. Common law knock and announce and R.C. 2935.12(A) are unconcerned with what an arrestee knows, ought to know, or suspects about a police officer's presence at his or her home. R.C. 2935.12(A) is police officer focused, not occupant focused. Nothing in the statutory language creates an exception to the statute's application based upon what an occupant may know concerning a police officer's presence and purpose.

{¶ 22} Our dissenting colleague asserts that "strict compliance with knock and announce" is excused "when the occupant already knows the officers' identity and purpose." In support of this assertion, the dissent relies upon the federal Sixth Circuit Court of Appeals opinions in *United States v. Martin*, 112 Fed.Appx 456 (6th Cir. 2004),

and *United States v. Spikes*, 158 F.3d 913 (6th Cir. 1998). However, neither case supports the proposition advanced by the dissent. Indeed, neither case even considers whether there are circumstances under which strict compliance with knock and announce may be excused because in each of those cases the police announced their presence and purpose prior to entry.

{¶ 23} As stated above, Byrnes failed to identify himself and announce his purpose to execute the warrant for appellant's arrest before he forcibly entered appellant's apartment in violation of the "knock and announce" rule and R.C. 2935.12(A). As Officer Byrnes' entry into appellant's apartment was unlawful, appellant's subsequent arrest was unlawful, and the trial court erred in denying appellant's Crim.R. 29 motion for a judgment of acquittal. *Campana*, 112 Ohio App.3d at 303-304.

{¶ 24} Appellant's first assignment of error is sustained.

Ineffective Assistance of Counsel

{¶ 25} Assignment of Error No. 2:

> TRIAL COUNSEL WAS INEFFECTIVE BY FAILING TO FILE A MOTION TO SUPPRESS TO CHALLENGE THE UNLAWFUL SEARCH AND SEIZURE.

{¶ 26} Appellant argues that his trial counsel was ineffective because he failed to file a motion to suppress challenging Officer Byrnes' unlawful forcible entry into appellant's home under R.C. 2935.12(A). Given our resolution of the first assignment of error, this assignment of error is moot, and we decline to address it. App.R. 12(A)(1)(c); *State v. Burst*, 2025-Ohio-2277, ¶ 24-25 (9th Dist.); *State v. Dalton*, 2025-Ohio-862, ¶ 16 (2d Dist.).

Conclusion

{¶ 27} The trial court's judgment is reversed, appellant's conviction for resisting

arrest and his sentence are vacated, and appellant is discharged.

SIEBERT, J., concurs.

PIPER, P.J., dissents.

PIPER, P.J., dissenting.

{¶ 28} Until now, in determining whether an arrest was lawful for purposes of a resisting-arrest conviction in violation of R.C. 2921.33(A), this court has asked only whether the "facts known to the arresting officers give probable cause to arrest." *See, e.g., State v. Lynch*, 2026-Ohio-2977, ¶ 18 (12th Dist.), quoting *Whren v. United States*, 517 U.S. 806, 815. Relying on *State v. Campana*, 112 Ohio App.3d 297 (11th Dist. 1996), the majority opinion now moves the goal posts in our district and demands strict compliance with R.C. 2935.12 for an arrest to be found lawful. *Campana* is a decades-old Eleventh District decision that neither binds this court nor persuades me to join in with the majority. *State v. Ethel*, 2016-Ohio-2682, ¶ 9 (12th Dist.) ("It is well-established that we are generally only bound by the decisions of the Ohio Supreme Court and by past precedent produced by our own district, not those decisions from our brethren within the other eleven appellate districts.").

{¶ 29} Even assuming the "knock and announce" statute determines whether Robinson's arrest was lawful, which it does not, the purposes of the "knock and announce" constitutional protections were satisfied here. R.C. 2935.12 merely codifies the Fourth Amendment's "knock and announce" principle, which is "an element of the reasonableness inquiry under the Fourth Amendment." *State v. Bembry*, 2017-Ohio-8114, ¶ 19. Ohio affords no greater protection for "knock and announce" violations than the Fourth Amendment provides. *Id.* at ¶ 30. Consequently, there is no basis to demand

strict compliance with R.C. 2935.12 for a seizure to be reasonable and lawful. Doing so produces an absurd result here.

{¶ 30} We should not lose focus that "[t]he touchstone of analysis under the Fourth Amendment is always 'the reasonableness in *all* the circumstances of a particular governmental invasion of a citizen's personal security.'" (Emphasis added.) *State v. Bell*, 2002 Ohio App. LEXIS 510, *4 (12th Dist. Feb. 11, 2002), quoting *State v. Lozada*, 92 Ohio St.3d 74, 78 (2001). Here, the State presented evidence that Robinson was aware of the officer's identity and purpose. Robinson's awareness bolsters the State's argument that technical compliance with the "knock and announce" statute would have served no meaningful purpose. The majority would essentially permit a defendant with actual knowledge of the identity and purpose of arresting officers to resist arrest after their forced entry merely because the officers did not expressly say, prior to entry, "Police, we have a warrant for your arrest."

{¶ 31} Based on the facts within the record, Robinson's arrest was not unreasonable, and nothing excused his conduct in resisting arrest on the warrant. Accordingly, I find that the jury was presented with sufficient evidence to find Robinson guilty of resisting arrest in violation of R.C. 2921.33(A) and no manifest injustice requires that his conviction be reversed and vacated.

Scope and Purpose of the Knock-and-Announce Rule

{¶ 32} The scope and purpose of the "knock and announce" rule is well established. So too is the remedy for when a violation of the rule occurs. Given the facts of this case, even if the entry into Robinson's home were unlawful—which it was not—the proper remedy would be civil damages, not nullification of Robinson's resisting arrest

charge.

{¶ 33} The "knock and announce" rule, codified in R.C. 2935.12, governs when an officer serving an arrest or search warrant may lawfully "break down an outer or inner door or window of a dwelling house" to make a forcible entry; that is, when "after notice of his intention to make the arrest or to execute the warrant or summons, he is refused admittance." The "knock and announce rule" does not determine whether the arrest or search itself is lawful. That question turns on whether probable cause supports the arrest or search—a requirement conclusively established with a valid warrant issued by a magistrate or judge.

{¶ 34} As the Ohio Supreme Court has recognized, "[t]he knock-and-announce principle, however, protects 'human life and limb' placed in jeopardy by 'supposed self-defense by the surprised resident,' assures 'the protection of property' that may be destroyed during a forced entry, and safeguards 'elements of privacy and dignity that can be destroyed by a sudden entrance.'" *Bembry*, 2017-Ohio-8114, at ¶ 21, quoting *Hudson v. Michigan*, 547 U.S. 586, 594 (2006). Property damage or an invasion of privacy and dignity caused by an unlawful entry does not determine whether the underlying arrest was lawful.

{¶ 35} The Court in *Bembry* recognized that suppressing evidence "does not heal a physical injury, fix a door, or undo the shock of embarrassment when police enter without notice of their presence and purpose." *Bembry* at ¶ 21. "It makes no sense then to restore the privacy interest that existed prior to the issuance of the warrant by suppressing evidence merely because police executed the *valid* warrant in an unlawful manner." (Emphasis in original.) *Id.* at ¶ 28. Along the same lines, it makes no sense to

render Robinson's resulting arrest in this case unlawful merely because the majority determines that the police executed the *valid* warrant in an unlawful manner. Rendering the arrest unlawful does not remedy those harms identified in *Bembry*.

{¶ 36} While "[t]he plain language of R.C. 2935.12 provides no remedy for its violation," the United States Supreme Court has recognized that civil suits provide a remedy for "knock and announce" violations. *Bembry*, 2017-Ohio-8114, at ¶ 29; *Hudson*, 547 U.S. 586 at 598. Ohio law likewise provides an express civil remedy in a related context: When police execute a "no-knock warrant" at the wrong address, R.C. 2933.231(D)(2) makes the state or associated political subdivision "liable in damages in a tort action for any injury, death, or loss to a person or property."

{¶ 37} Nevertheless, the circumstances in this case show that the purposes of "knock and announcement" were satisfied, and therefore law enforcement's forcible entry into Robinson's apartment was neither unreasonable nor unlawful.

Robinson Knew the Officers' Identity and Purpose

{¶ 38} As the majority recognizes, the "knock and announce" requirement bears on the reasonableness of a seizure. *State v. Taylor*, 135 Ohio App.3d 182, 186 (12th Dist. 1999), citing *Wilson v. Arkansas*, 514 U.S. 927, 931 (1995). But an officer's failure to expressly announce both identity and purpose does not invariably make a seizure unreasonable and therefore unlawful. The reasonableness inquiry must account for the circumstances confronting the officers and the occupant. The United States Supreme Court has explained that the "knock and announce" requirement "is not easily applied, and that there are many "situations in which it is not necessary to knock and announce," including circumstances where "knocking and announcing would be futile." *Hudson*, 547

U.S. 586, 589-590. "We require only that police 'have a reasonable suspicion . . . under the particular circumstances' that one of these grounds for failing to knock and announce exists, and we have acknowledged that '[t]his showing is not high.'" *Id.*, quoting *Richards v. Wisconsin*, 520 U.S. 385, 394 (1997).

{¶ 39} Accordingly, many federal courts, including the Sixth Circuit Court of Appeals, have relaxed the otherwise strict compliance approach to the "knock and announce" requirement when knocking and announcing would be futile or when the occupant already knows the officers' identity and purpose. *See, e.g.*, *United States v. Martin*, 112 Fed.Appx. 456, 459-461 (6th Cir. 2004) (finding "the purpose of the knock-and-announce rule was satisfied because [appellant] was aware the police were outside of his door and wanted admittance to execute a search warrant" even though the police did not necessarily "wait a reasonable period of time before forcibly entering a premises" as required by the knock-and-announce rule). As the Sixth Circuit has explained, "[t]he focus of the 'knock and announce' rule is properly not on what 'magic words' are spoken by the police, or whether the police rang the doorbell, but rather on how these words and other actions of the police will be perceived by the occupant." (Cleaned up.) *United States v. Spikes*, 158 F.3d 913, 925 (6th Cir. 1998). The proper "trigger point" is "when those inside should have been alerted that the police wanted entry to execute a warrant." *Id.*

{¶ 40} Contrary to the majority's critique, this dissent neither questions the police's obligation to comply with R.C. 2935.12(A) nor seeks to create an exception to that obligation. The question is what constitutes compliance with the statute's notice requirement. R.C. 2935.12(A) permits an officer to break down a door "after notice of his intention to make the arrest," but it does not prescribe particular words or actions by which

the officer must convey that notice. Whether the requisite notice has been conveyed may therefore depend on the circumstances. That reading is consistent with the statute's codification of the knock-and-announce requirements recognized at common law and under the Fourth Amendment. The knock-and-announce analysis focuses on the reasonableness of police conduct in the particular circumstances of each case. Therefore, although *Martin* and *Spikes* may not be an apples-to-apples comparison to the case at bar, given their concern with the rule's timing requirements rather than its specific notice requirements, their circumstance-dependent reasoning nevertheless remains instructive here.

{¶ 41} In the case before us, the jury instructions provided by the trial court reflect that analysis: "You must decide whether the arrest was lawful . . . a law enforcement officer does not have to provide notice of his intention to execute the warrant if . . . the officers reasonably believe that announcing their presence would be futile such as when the occupants are already aware of their presence." Neither party objected to the trial court's jury instructions nor to the issues the jury was asked to resolve, and Robinson has not raised any assignment of error on these matters in his appeal.

{¶ 42} As the record establishes, Robinson knew that it was Officer Byrnes who was outside of his home and why Officer Byrnes was there. Officer Byrnes and Robinson knew each other from prior encounters at Robinson's apartment. Officer Byrnes yelled to Robinson from outside the apartment building for several minutes, shone his flashlight into Robinson's window, and saw Robinson come to the window and look down at him. It was at this point that Officer Byrnes went to the upstairs apartment door, knocked loudly multiple times with the butt of his flashlight, and continuously yelled out to Robinson for

three and a half minutes: (1) "Robinson, come to the door, don't make me kick it down . . .;" (2) "Robinson do you really want to lose another door?;" (3) "Robinson, you're going to pick up charges if you just don't come to the door. I'd prefer not to do that."[1]

{¶ 43} After banging on the door and yelling for Robinson to come open the door multiple times, Officer Byrnes heard Robinson come to the door and lock an additional lock. Robinson knew law enforcement was there, and he had no intention of surrendering himself. Officer Byrnes then gave Robinson one final warning, stating, "Robinson, I'll give you one more chance to unlock the door, buddy, I don't want to kick your door down again." Taken together, these facts firmly establish that Robinson knew Officer Byrnes was there to arrest him. This is not a case in which the police surprised an unaware occupant and provoked a defensive response.

{¶ 44} After the officers entered the threshold of Robinson's apartment, Officer Byrnes's backup announced, "Police, we have a warrant for your arrest." When Officer Byrnes saw Robinson down a hallway, he ordered him to come out. Robinson asked to see the warrant, and the officers replied that they would show it to him once he left the hallway and surrendered. Despite knowing both the officers' identity and their purpose for being there, Robinson then retreated into his bedroom, slammed the door in Officer Byrnes's face, and forced the officers to wrestle him onto the bed to apply handcuffs.

{¶ 45} There was nothing surprising or unreasonable about the manner of arrest which could possibly justify Robinson's resistance. After Robinson was handcuffed, he confirmed that he knew a warrant had been issued for his arrest, and while attempting to

1. Officer Byrnes' body camera corroborates nearly all his testimony before the jury, for example the video demonstrates the length at which Officer Byrnes tried to coax Robinson into unlocking the apartment door and Robinson's response was instead to engage a second lock.

bargain with the police, he demonstrated his familiarity by pleading, "Byrnes, you know me."

{¶ 46} The facts establish that the purposes of the "knock and announce" statute were fully satisfied by Officer Byrnes' repeated calls from outside the apartment, his repeated banging on the apartment door, and his references to previous encounters and warnings that Robinson could incur more charges. Robinson demonstrated he knew what was going on by looking outside at Byrnes and locking a second lock on his apartment door. Ultimately, Robinson resisted arrest *after* the officers explicitly announced their identity and purpose. Because Robinson also knew that a warrant had been issued for his arrest, any defect the majority identifies in the officers' entry to execute that warrant was inconsequential and, at most, de minimis.

Conclusion

{¶ 47} The officers had a valid arrest warrant, and Robinson knew who the officers were and why they were there. The officers' entry into Robinson's apartment did not implicate any of the surprise-based concerns that the "knock and announce" rule is designed to prevent. Even assuming a technical failure of strict compliance with the knock and announce statute, Robinson's arrest was not unlawful. That is, the police satisfied the purpose of the "knock and announce" requirement, if not the letter of the statute, and Robinson had no reasonable basis to resist the police in serving the warrant and doing their job.

{¶ 48} Ultimately, the jury was instructed to decide whether the police had a reasonable belief that a "knock and announcement" would have been futile, and if Robinson's arrest was therefore lawful. We presume, unless presented with evidence to

the contrary, a jury follows the instructions of law given by the trial court. Based on the foregoing, the record contains sufficient evidence for the jury to reach their guilty verdict in this case. I cannot concur with the majority's conclusion that the evidence was insufficient. Accordingly, I would overrule both of Robinson's assignments of error and affirm his conviction.

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, reversed, appellant's conviction and sentence are vacated, and appellant is discharged.

It is further ordered that a mandate be sent to the Lebanon 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/ Mike Powell, Judge

/s/ Melena S. Siebert, Judge