[Cite as *State v. Saunders*, 2026-Ohio-4311.]

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

STATE OF OHIO	:	
	:	C.A. No. 30752
Appellee	:	
	:	Trial Court Case No. 25CRB00650
v.	:	
	:	(Criminal Appeal from Municipal Court)
MICHAEL D. SAUNDERS JR.	:	
	:	**FINAL JUDGMENT ENTRY & OPINION**
Appellant	:	
	:	

. . . . . .

Pursuant to the opinion of this court rendered on October 30, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



MICHAEL L. TUCKER, JUDGE

HUFFMAN, J., and HANSEMAN, J., concur.

OPINION
MONTGOMERY C.A. No. 30752

COLIN P. COCHRAN, Attorney for Appellant
JOHN D. EVERETT, Attorney for Appellee

TUCKER, J.

{¶ 1} Michael D. Saunders Jr. appeals from his conviction of theft. Saunders contends that the State did not present evidence sufficient to support the conviction and that the conviction was otherwise against the manifest weight of the evidence. For the reasons outlined below, we affirm.

I. Factual and Procedural History

{¶ 2} On May 27, 2025, Saunders was charged by complaint with one count of theft in violation of R.C. 2913.02. A jury trial was conducted on November 6, 2025. At trial, the State presented the testimony of G.L., who testified that she advertised four tires for sale on Facebook Marketplace and that Saunders responded to the advertisement. The parties agreed to a price of $275 for the tires and arranged to complete the transaction at G.L.'s home, in Kettering.

{¶ 3} G.L.'s son, Tony, who resided with G.L., met with Saunders while she stayed inside her home. G.L. testified that Tony met with Saunders outside, that Tony came inside to ask whether she would accept a lower price, and that she refused to lower the price. Tony left the home to inform Saunders, but he quickly returned and informed G.L. that Saunders had left with the tires without paying for them. G.L. sent Saunders a message telling him that he needed to return the tires and that she was calling the police. Her message indicated that she had his license plate number and that the theft had been recorded on surveillance camera. G.L. testified that she did not have a surveillance camera but that she hoped

Saunders would return the tires if he thought the incident had been recorded. G.L. testified that Saunders responded with a text message in which he claimed to have given Tony $205 for the tires. His message also stated that the tires were "trash" and that he would not pay the full price. G.L. responded that Saunders had not paid Tony and that he needed to return the tires. Saunders replied that he would return the tires if G.L. returned his money.

{¶ 4} Tony testified that Saunders arrived at his residence in a truck driven by another person. Tony indicated that after he had helped load two of the tires into the truck, Saunders said that he wanted to pay $205 rather than $275. At that point, Tony went into the house to ask his mother if she would accept the lower amount. After G.L. refused to accept a lower price, Tony went back to Saunders and informed him that the price would not be reduced. Saunders then stated that he needed only three of the tires, so Tony again returned to the house to relay the new offer to his mother. While in the house, Tony observed the truck leave with the tires. Tony started to chase the truck down the street but was unable to stop it. According to Tony, Saunders took all four tires without paying.

{¶ 5} Kettering Police Officer Justin Blackwell testified that he responded to a dispatch regarding a theft. The dispatch indicated that two white males in a dark Dodge truck were the suspects. After another officer found and stopped the truck, Blackwell responded to the stop. According to Blackwell, Saunders indicated that he had given Tony $205 for the tires. Blackwell also testified that Saunders said that he originally had $1,000 in cash, all in $20 dollar bills. Saunders indicated that he had to borrow a $5 bill from his companion in order to pay Tony the $205. Saunders "made it clear that he would have no more $5 bills or any other kind of change that he had brought with him." Blackwell then asked Saunders if he would consent to a review of his money, which was in a plastic bag in the truck. Blackwell counted the cash, which totaled $725 and included a $5 bill. Blackwell testified that upon

discovery of the $5 bill in the bag, Saunders stated that he had bought an energy drink after the tire transaction. Saunders later indicated that he had received change after paying for gas following the tire transaction. Blackwell also testified that Saunders eventually said that he did not remember where he obtained the $5 bill. Blackwell testified that Saunders' changing stories, after being so specific about borrowing a $5 bill from his companion, caused him to believe Saunders was not being truthful.

{¶ 6} Following trial, the jury found Saunders guilty of theft. The trial court imposed a sentence of 180 days with 180 days suspended. Saunders was placed on two years of probation and ordered to pay a $10 fine. The sentence was stayed pending appeal.

{¶ 7} Saunders appeals.

II. Sufficiency and Manifest Weight

{¶ 8} Saunders asserts the following as his sole assignment of error:

> APPELLANT'S CONVICTION WAS NOT SUPPORTED BY SUFFICIENT EVIDENCE AND WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶ 9} Saunders argues that his conviction was not supported by sufficient evidence and was otherwise against the manifest weight of the evidence.

{¶ 10} "A sufficiency of the evidence argument disputes whether the State has presented adequate evidence on each element of the offense to allow the case to go to the jury or sustain the verdict as a matter of law." *State v. Wilson*, 2009-Ohio-525, ¶ 10 (2d Dist.), citing *State v. Thompkins*, 78 Ohio St.3d 380 (1997). "When reviewing a claim as to sufficiency of evidence, the relevant inquiry is whether any rational factfinder viewing the evidence in a light most favorable to the state could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Dennis*, 79 Ohio St.3d 421, 430

(1997). “The verdict will not be disturbed unless the appellate court finds that reasonable minds could not reach the conclusion reached by the trier-of-fact.” *Id.*

{¶ 11} In discussing manifest weight arguments, this court recently stated:

> A manifest weight of the evidence challenge is a challenge to the greater amount of credible evidence, or the persuasiveness of the evidence, offered at trial to support one side of the issue rather than the other. *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997); *State v. Reillo*, Slip Opinion No. 2026-Ohio-2701, ¶ 24, 26. On review, an appellate court must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. *Thompkins* at 387, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983); *Reillo* at ¶ 24, 26.
>
> “If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment.” (Cleaned up.) *Reillo* at ¶ 28, quoting *In re Z.C.*, 2023-Ohio-4703, ¶ 14, *quoting Seasons Coal Co. v. City of Cleveland*, 10 Ohio St.3d 77, 80, fn. 3 (1984), quoting 5 Ohio Jur.3d, Appellate Review, § 603, at 191-192 (1978).
>
> An appellate court may vacate a jury’s verdict and order a new trial “only in the exceptional case in which the evidence weighs heavily against the conviction.” (Cleaned up.) *Reillo* at ¶ 27, quoting *State v. Brown*, 2025-Ohio-2804, ¶ 31, quoting *Thompkins* at 387, *quoting* Martin at 175. “An appellate court sits as the thirteenth juror [and may reverse the fact-finder’s

determination] only when [the] evidence contradicts a fact-finder's findings or when a witness's testimony is so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable." (Citation omitted.) Id. at ¶ 3.

As the *Reillo* Court recently explained, to reverse a conviction based on a manifest weight of the evidence challenge, the evidence must demonstrate "something more than a mere inconsistency." *Reillo*, 2026-Ohio-2701, at ¶ 32. (Bracketed text in original.) *State v. Craft*, 2026-Ohio-3544, ¶ 7-10 (2d Dist.).

{¶ 12} The offense of theft is proscribed by R.C. 2913.02, which states, in pertinent part, "No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services . . . [w]ithout the consent of the owner or person authorized to give consent." R.C. 2913.02(A)(1). Purposely and knowingly are statutorily defined. An individual acts "purposely" when they have a "specific intention to cause a certain result" or when they intend to engage in the conduct that constitutes the offense. R.C. 2901.22(A). An individual acts "knowingly" if they are "aware that the person's conduct will probably cause a certain result or will probably be of a certain nature," regardless of their purpose. R.C. 2901.22(B).

{¶ 13} Saunders argues that the State failed to present evidence sufficient to prove that he had taken the tires without consent or that he had acted with purpose to deprive G.L. of her property. In support, he argues that G.L.'s consent could be inferred by the fact that Tony helped him load the tires into the truck. He also argues that his offer to return the tires in exchange for a refund was not consistent with finding that he acted with purpose to deprive G.L. of the tires.

{¶ 14} "Commonly, there is no direct evidence of a defendant's state of mind so the state must rely on circumstantial evidence to satisfy this element of its case. A defendant's state of mind may be inferred from the totality of the surrounding circumstances." *State v. Rodano*, 2017-Ohio-1034, ¶ 43 (8th Dist.), quoting *In re Horton*, 2005-Ohio-3502, ¶ 23 (4th Dist.). In Ohio, it is well-established that "a defendant may be convicted solely on the basis of circumstantial evidence." *State v. Nicely*, 39 Ohio St.3d 147, 151 (1988). Direct and circumstantial evidence "'inherently possess the same probative value.'" *State v. McDonald*, 2007-Ohio-4336, ¶ 26 (2d Dist.), quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph one of the syllabus. "Circumstantial evidence is defined as '[t]estimony not based on actual personal knowledge or observation of the facts in controversy, but of other facts from which deductions are drawn, showing indirectly the facts sought to be proved.'" *Nicely* at 150, quoting *Black's Law Dictionary* (5th Ed. 1979).

{¶ 15} Here, the State presented Tony's testimony that Saunders took the tires without paying for them. This constitutes sufficient evidence upon which a reasonable juror could rely in concluding that Saunders' actions evinced the purpose to commit a theft offense. The mere fact that Tony helped to load the tires into the truck prior to payment does not require a finding of consent. Similarly, Saunders' claim that he later offered to return the tires does not negate his original actions in taking the tires without paying.

{¶ 16} Saunders next claims the convictions were against the manifest weight of the evidence because the testimony of G.L., Tony, and Blackwell lacked credibility. First, he claims that G.L. lied by claiming to have a surveillance camera. He also claims she lied by testifying that Tony had two jobs. Further, according to Saunders, Tony's testimony that Saunders failed to pay is contradicted by Saunders' "consistent statements that he paid $205, and testimony that officers found $725 on [Saunders] after he started the day with

$1,000." Finally, Saunders claims that Blackwell's testimony regarding the $5 bill in Saunders' plastic bag was not credible, because Blackwell later admitted it was "possible" that Saunders "forgot" that he had the smaller bill in his possession.

{¶ 17} "The credibility of the witnesses and the weight to be given to their testimony are matters for the trier of facts primarily to resolve." *State v. Wilson*, 2009-Ohio-525, ¶ 15 (2d Dist.), citing *State v. DeHass*, 10 Ohio St.2d 230 (1967). In *State v. Lawson*, 1997 WL 476684, *4 (2d Dist. Aug. 22, 1997), we explained:

> Because the factfinder . . . has the opportunity to see and hear the witnesses, the cautious exercise of the discretionary power of a court of appeals to find that a judgment is against the manifest weight of the evidence requires that substantial deference be extended to the factfinder's determinations of credibility. The decision whether, and to what extent, to credit the testimony of particular witnesses is within the peculiar competence of the factfinder, who has seen and heard the witness.

Thus, we will not substitute our judgment for that of the trier of fact on the issue of witness credibility unless it is patently apparent that the trier of fact lost its way in arriving at its verdict. *Wilson* at ¶ 17, citing *State v. Bradley*, 1997 WL 691510 (2d Dist. 1997).

{¶ 18} In this case, "[t]he jury, as the trier of fact, '[was] free to believe all, some, or none of the testimony of each witness appearing before it.'" *State v. Cobb*, 2025-Ohio-1274, ¶ 23 (2d Dist.), *appeal not accepted*, 2025-Ohio-2749, quoting *State v. Grant*, 2020-Ohio-3055, ¶ 50 (2d Dist.), citing *State v. Wright*, 2002-Ohio-4279, ¶ 25 (8th Dist.).

{¶ 19} Regardless of whether the testimony of G.L. and Blackwell lacked credibility, the jury was free to rely on Tony's testimony in finding Saunders guilty of theft. Tony specifically testified that Saunders took the tires without paying for them. The jury was not

required to believe, based on Saunders' statements to the police or his message to G.L., that he had consent to take the tires or that he paid an agreed-upon lower price for them. From our review of the record, we cannot say that Tony's testimony was inherently incredible or that the jury lost its way in relying on it. On this record, we cannot conclude that the jury's verdict was against the weight of the evidence.

{¶ 20} Because we conclude that the evidence was sufficient to support the conviction and that the conviction was not against the manifest weight of the evidence, we find Saunders' assignment of error without merit. Accordingly, the assignment of error is overruled.

III. Conclusion

{¶ 21} Saunders' assignment of error being overruled, the judgment of the Kettering Municipal Court is affirmed.

. . . . . .

HUFFMAN, J., and HANSEMAN, J., concur.