

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
LAWRENCE COUNTY

STATE OF OHIO,	:	Case No. 25CA10
Plaintiff-Appellee,	:	
v.	:	<u>DECISION AND</u>
	:	<u>JUDGMENT ENTRY</u>
RONALD E. ROBERTSON, JR.,	:	
Defendant-Appellant.	:	RELEASED 10/17/2025

APPEARANCES:

Brian T. Goldberg, Cincinnati, Ohio, for appellant.

Brigham M. Anderson, Lawrence County Prosecuting Attorney, and Steven K. Nord, Lawrence County Assistant Prosecuting Attorney, Ironton, Ohio, for appellee.

Hess, J.

{¶1} Ronald E. Robertson, Jr. appeals his conviction on failing to comply with an order or signal of a police officer, a third-degree felony. Robertson contends that his felony conviction must be reduced to a misdemeanor because the verdict form was insufficient to support a felony conviction. He also contends that his conviction was not supported by sufficient evidence and was against the manifest weight of the evidence. For the following reasons, we overrule Robertson's assignments of error and affirm the judgment.

I. FACTS AND PROCEDURAL HISTORY

{¶2} The Lawrence County grand jury indicted Robertson on one count of failure to comply with an order or signal of a police officer, a third-degree felony. The indictment alleged that Robertson operated a motor vehicle to willfully elude or flee a police officer after receiving a visible or audible signal to bring his vehicle to a stop and that his

operation of the vehicle caused a substantial risk of serious physical harm to persons or property in violation of R.C. 2921.331(B). Robertson pleaded not guilty and the matter proceeded to trial.

{¶3} Sergeant Travis Euton of the New Boston Police Department testified that he was involved in the incident involving Robertson. He had received a call that Coal Grove law enforcement officials were in a pursuit towards the village of New Boston. Sgt. Euton positioned his cruiser to act as a barricade. Robertson's motorcycle approached the cruiser, slid down, and Robertson went over Sgt. Euton's cruiser. Sgt. Euton testified that the motorcycle was still moving when Robertson slid it down and was thrown off of it. The Coal Grove officers had placed Robertson in handcuffs by the time Sgt. Euton exited his cruiser. He inspected his cruiser but did not see any damage and did not believe that either the motorcycle or Robertson came in contact with his cruiser. Sgt. Euton identified photographs he had taken of the motorcycle and the cruiser. Sgt. Euton testified that based on the speed at which Robertson was travelling, Sgt. Euton did not believe it would be dangerous for him to pull his cruiser into the roadway and that Mr. Robertson was able to avoid contact. As the motorcycle lay in the roadway, gasoline was spilling out from the tank. Sgt. Euton was unable to locate the gas cap.

{¶4} Patrolman Zachary Roberts was working for the Coal Grove Police Department with Sergeant Woodyard when they both became involved in the incident involving Robertson. Sgt. Woodyard was driving the cruiser and they both observed a motorcycle with a male driver, who turned out to be Robertson, drive past without a license plate. They proceeded to turn on their cruiser lights to pull over the motorcycle. When the motorcycle did not stop, they turned on the sirens. At that point, Robertson

looked back and then started to accelerate, cut in between traffic to try to get away, and reached speeds of up to 120 m.p.h. on the highway. It was approximately 1:00 p.m. on a Saturday afternoon. Though traffic was light, Robertson was weaving in and out of the traffic that was present. The cruiser did not have a camera at that time, but Sgt. Woodyard was wearing a body camera and Patrolman Roberts reviewed the video recording from it and testified that it was an accurate depiction of what transpired during the chase.

{¶15} Patrolman Roberts testified that Robertson was driving his motorcycle recklessly and putting the lives of the other drivers on the highway in danger as well as his own life and those of the two officers. Additionally, Robertson's motorcycle was not running properly and had smoke coming from it. It would reach speeds of 120 m.p.h. and then shortly thereafter fall back down to 60 m.p.h. and at various times it would be speeding at 80, 85, and 90 m.p.h. Patrolman Roberts testified that he thought the motorcycle should have been able to be "smoking us" and its failure to do so led him to believe the motorcycle was not operating properly. As they were in pursuit, a piece of black debris flew off the motorcycle and landed on the left side of the roadway. As they approached New Boston, Patrolman Roberts notified authorities there that they were heading their way. Patrolman Roberts testified that New Boston is a small village and "it can get extremely dangerous if a motorcyclist was going through their intersections with their traffic. Their traffic is usually a lot heavier where it's more smaller [sic] and compact." When they reached New Boston, Robertson drove his motorcycle through the spaces between the cars and ran red lights to avoid police capture. However, when Sgt. Euton's cruiser pulled out, Robertson slid the bike down under it and went through the air. After Robertson slid and landed, Patrolman Roberts exited his cruiser. Sgt. Woodyard also

exited and handcuffed Robertson. Patrolman Roberts testified that the motorcycle's missing license plate made the stop more dangerous because law enforcement does not know if the motorcycle was stolen, was used in a crime, and whether the driver might have warrants. Patrolman Roberts determined that Robertson did not have a driver's license, nor did he have an endorsement to drive a motorcycle.

{¶6} Patrolman Roberts testified that Robertson eventually slowed the operation of his motorcycle to reduce some of the risk associated with the chase. Patrolman Roberts testified that Sgt. Woodyard was not operating the cruiser in a way that would create a danger. Additionally, even though Robertson had slowed his speed at a certain point, he ran red lights and weaved between traffic, creating a separate additional risk to the one created by high speed.

{¶7} Sgt. Woodyard testified about the incident involving Robertson. He also testified that Robertson drove past them on his motorcycle without license plates, so they pulled out, put on their lights, and tried to pull him over. Before the pursuit began, Robertson was going approximately 55 m.p.h. When Robertson did not stop for the cruiser lights, Sgt. Woodyard activated the siren. Both the lights and siren remained activated throughout the pursuit. Sgt. Woodyard activated his body camera as soon as he turned the cruiser siren on, which records the window of the cruiser but does not show what is going on in front of the cruiser on the highway. Robertson's speeds varied from 60 m.p.h. to 120 m.p.h. Sgt. Woodyard noticed the motorcycle begin leaking oil and throwing oil up onto the cruiser's windshield. Sgt. Woodyard had to turn on the cruiser's windshield wipers to try to clear all the oil from his windshield. Additionally, the motorcycle speed "fluctuated tremendously" during the pursuit. While Robertson was driving through

the village of New Boston, he weaved in and out of traffic and ran red lights. Sgt. Woodyard thought the motorcycle ran into Sgt. Euton's cruiser, but when he caught up to it on foot, he could see that it had slid to the ground in front of it. He handcuffed Robertson, patted him down for weapons, asked him if he was injured, and called an ambulance for him.

{¶18} Sgt. Woodyard's body camera video was played for the jury and Sgt. Woodyard testified about the contents. The video includes comments from both Patrolman Roberts and Sgt. Woodyard about the various speeds of the motorcycle and they state that he was going 120 m.p.h. at some points and at other points he was travelling at approximately 60 m.p.h. such that the cruiser caught up to him, and the officers yelled over at Robertson to pull over. At one point, Sgt. Woodyard commented that the motorcycle had slick tires from the oil that was spilling from it on the roadway and over the cruiser's windshield. Sgt. Woodyard believed the motorcycle smelled as though it was going to catch on fire, which was also a very dangerous condition. Sgt. Woodyard testified that he read Robertson his Miranda rights and Robertson told Sgt. Woodyard that he fled because he did not want the motorcycle taken from him. Sgt. Woodyard testified that Robertson turned and looked at the cruiser multiple times during the pursuit but refused to pull his motorcycle over. Sgt. Woodyard testified that Robertson created a dangerous situation because Robertson, the officers, and the other drivers on the roadway could have been hurt. "It was a very dangerous situation." The fact that Robertson slowed down later during the pursuit did not remove all risk because Robertson ran a red light and was running in and out of traffic.

{¶9} The jury found Robertson guilty, and the trial court sentenced him to 30 months in prison.

II. ASSIGNMENTS OF ERROR

{¶10} Robertson presents two assignments of error:

1. The verdict form was insufficient under R.C. 2945.75 to support Mr. Robertson's conviction and sentence for failure to comply with an order or signal of a police officer as a felony of the third degree.
2. Mr. Robertson's conviction for failure to comply with an order or signal of a police officer as a felony of the third degree was not supported by sufficient evidence and was contrary to the manifest weight of the evidence.

III. LAW AND ANALYSIS

A. The Verdict Form

{¶11} Robertson contends that he could only be convicted of a misdemeanor offense because the verdict form signed by the jury found him guilty of a first-degree misdemeanor, which cannot be enhanced to a felony.

{¶12} The offense of failure to comply with order or signal of police officer is governed by R.C. 2921.331, which was recently amended effective October 24, 2024. Because Robertson was alleged to have committed the offense on June 9, 2024, the prior version of the statute applies and provides in relevant part:

2921.331 Failure to comply with order or signal of police officer

- (A) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic.
- (B) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.
- (C)(1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.

(2) A violation of division (A) of this section is a misdemeanor of the first degree.

(3) Except as provided in divisions (C)(4) and (5) of this section, a violation of division (B) of this section is a misdemeanor of the first degree.

(4) Except as provided in division (C)(5) of this section, a violation of division (B) of this section is a felony of the fourth degree if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that, in committing the offense, the offender was fleeing immediately after the commission of a felony.

(5)(a) A violation of division (B) of this section is a felony of the third degree if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:

- (i) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.
- (ii) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

{¶13} A violation of R.C. 2921.331(A) and (B) are first-degree misdemeanors. A violation of R.C. 2921.331(B) may be enhanced to a fourth-degree felony under (C)(4) (fleeing a felony) and it may be enhanced to a third-degree felony under (C)(5)(a) if the operation of the motor vehicle by the offender (i) was a proximate cause of serious physical harm to persons or property or (ii) caused a substantial risk of serious physical harm to persons or property. R.C. 2921.331(C)(5)(a)(i) or (ii).

{¶14} The grand jury indicted Robertson on a single, third-degree felony count of failure to comply with an order or signal of a police officer, in violation of R.C. 2921.331(B) and (C)(5)(a)(ii). The indictment read:

RONALD E. ROBINSON [sic], JR. on or about JUNE 9, 2024, in Lawrence County, Ohio, did, operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop, and the operation of the

motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property, in violation of Section 2921.331(B), of the Ohio Revised Code.

Said act occurred in Lawrence County, Ohio, and is contrary to Ohio Revised Code Section 2921.331(B), Failure to Comply with the Order or Signal of a Police Officer F-3.

{¶15} The verdict form was signed by the jurors and stated as follows:

We, the Jury, being duly impaneled and sworn and affirmed, find Defendant **Ronald E. Robertson, Jr.**, * guilty beyond a reasonable doubt of Failure to Comply with the Order or Signal of a Police Officer, a first degree misdemeanor, as he stands charge in Count One of the indictment. (* INSERT YOUR FINDING OF “GUILTY BEYOND A REASONABLE DOUBT” OR “NOT GUILTY”)

If your verdict is “Not Guilty”, do not consider the Additional Finding.

Additional Finding: We, the Jury, being duly impaneled and sworn and affirmed, further find that the State of Ohio ** did prove beyond a reasonable doubt that Defendant **RONALD E. ROBERTSON, JR.’S** operation of the motor vehicle caused substantial risk of serious physical harm to persons or property, the existence of which raises the degree of the offense to a felony of the third degree. (**INSERT YOUR FINDING OF “DID” OR “DID NOT”)¹

{¶16} Robertson argues that under R.C. 2945.75(A)(2), *State v. McDonald*, 2013-Ohio-5042, and *State v. Pelfry*, 2007-Ohio-256, his conviction for a third-degree felony of a failure to comply offense must be reduced to a first-degree misdemeanor because the jury found him guilty of the first-degree misdemeanor offense under the language which is set forth in R.C. 2921.331(A). He argues that the “additional findings made by the jury were not relevant because they do not apply to that charge as a misdemeanor of the first degree under R.C. 2921.331(A). He argues that the first-degree misdemeanor offense under R.C. 2921.331(A) cannot be enhanced – only the first-degree misdemeanor offense under R.C. 2921.331(B) can be enhanced to a third-degree felony by an

¹ The italicized portions of the verdict form indicate the jury’s handwritten findings.

additional finding that he caused substantial risk of serious physical harm to the persons or property under R.C. 2921.331(C)(5)(a)(ii).

{¶17} R.C. 2945.75(A)(2) provides:

(A) When the presence of one or more additional elements makes an offense one of a more serious degree: . . .

(2) A guilty verdict shall state either the degree of the offense of which the offender is found guilty, or that such additional element or elements are present. Otherwise, a guilty verdict constitutes a finding of guilty of the least degree of the offense charged.

{¶18} Here the verdict form found Robertson guilty of “failure to comply with the order or signal of a police officer, a first degree misdemeanor” which, contrary to what Robertson argues, could refer to an offense under *either* R.C. 2921.331(A) *or* R.C. 2921.331(B). The verdict form does not track either the language from R.C. 2921.331(A) or (B), but rather it tracks the language in R.C. 2921.331(C)(1), which states, “Whoever violates this section is guilty of *failure to comply with an order or signal of a police officer.*” (Emphasis added.) Thus, if an offender violates either subsection (A) or (B), the offender “is guilty of failure to comply with an order or signal of a police officer.” Next, the verdict form found that Robertson’s “operation of a motor vehicle caused substantial risk of serious physical harm to persons or property, the existence of which raises the degree of the offense to a felony of the third degree.” This second finding by the jury enhances a first-degree misdemeanor offense under R.C. 2921.331(B), but it would not enhance a first-degree misdemeanor offense under R.C. 2921.331(A) because this section is not subject to enhancement. Thus, under the verdict form, Robertson was found guilty of a first-degree misdemeanor failure to comply offense under R.C. 2921.331(C)(1) and also guilty of aggravating factors that would enhance a first-degree misdemeanor under R.C.

2921.331(B) up to a third-degree failure to comply offense. However, the verdict form does not contain the elements of the first-degree misdemeanor failure to comply offense under either R.C. 2921.331(A) or (B). See *State v. McDonald*, 2013-Ohio-5042, ¶ 5 (discussing R.C. 2921.331(C)(1)).

{¶19} Robertson's argument is like that made by McDonald in *State v. McDonald*, 2013-Ohio-5042, ¶ 10. The Supreme Court of Ohio's decision in *McDonald* was a reversal of our own Fourth District decision in *State v. McDonald*, 2012-Ohio-1528 (4th Dist.).

{¶20} The verdict form the jury signed in *McDonald* was similar to the one here in that the offense used the language from R.C. 2921.331(C)(1): "Failure to Comply with Order or Signal of Police Officer," but in *McDonald* it differed from Robertson's verdict form because, although the aggravating or enhancing factor was identified as "Caused a Substantial Risk or Serious Physical Harm To Persons or Property," the *McDonald* verdict form did not include the degree of the offense, i.e. "third-degree felony." *McDonald* at ¶ 6-8. McDonald argued that the verdict form failed to find him guilty of R.C. 2921.331(B) and only a violation of R.C. 2921.331(B) "provides the necessary predicate for a felony punishment pursuant to R.C. 2921.331(C)(5)(a)(ii)." Therefore, the verdict form was deficient, and he could only be convicted of a first-degree misdemeanor offense under R.C. 2921.331(A).

{¶21} We had rejected McDonald's argument and found that because the aggravating factor that elevates the crime from a first-degree misdemeanor to a third-degree felony is the fact that defendant is causing "a substantial risk of physical harm to persons or property" and that language was included in the verdict form, it complied with R.C. 2945.75 and *Pelfrey*, which requires *either* the degree of the offense *or* a statement

of the aggravating element. *State v. McDonald*, 2012-Ohio-1528, ¶ 9. However, we recognized our decision was in direct conflict with a decision in the Third District Court of Appeals and certified a conflict. *State v. Schwable*, 2009-Ohio-6523 (3d Dist.). The Supreme Court of Ohio reversed our decision.

{¶22} The Court in *McDonald* reiterated its holding from *Pelfrey*, *infra*:

In *Pelfrey*, this court addressed the specificity that R.C. 2945.75 requires in verdict forms in cases in which the degree of an offense becomes more serious with the presence of additional elements. The court held:

[P]ursuant to the clear language of R.C. 2945.75, a verdict form signed by a jury must include either the degree of the offense of which the defendant is convicted or a statement that an aggravating element has been found to justify convicting a defendant of a greater degree of a criminal offense.

Pelfrey, 112 Ohio St.3d 422, 2007-Ohio-256, 860 N.E.2d 735, at ¶ 14.

State v. McDonald, 2013-Ohio-5042, ¶ 13.

{¶23} The Court also stated, “*Pelfrey* makes clear that in cases involving offenses for which the addition of an element or elements can elevate the offense to a more serious degree, the verdict form itself is the only relevant thing to consider in determining whether the dictates of R.C. 2945.75 have been followed.” *McDonald* at ¶ 17. Therefore, in *McDonald*, the Court looked only at the verdict form (not the jury instructions, the indictment, or the evidence presented at trial).

{¶24} The Court found that to properly convict McDonald of a violation of R.C. 2921.331(B) as enhanced by R.C. 2921.331(C)(5)(a)(ii):

the verdict would have to either state that McDonald was guilty of a third-degree felony or set forth the additional elements that transform the failure to comply with the order or signal of a police officer from a misdemeanor to a third-degree felony. There is no dispute that the verdict at issue failed to state that McDonald was guilty of a third-degree felony. The dispute in this

case is whether the verdict sufficiently set forth the elements that led to a felony conviction. We hold that the verdict in this case was deficient in that regard.

Id. at ¶ 19. The Court again acknowledged that the section of the verdict form that stated that McDonald was guilty of “failure to comply with order or signal of police officer” used the language of R.C. 2921.331(C)(1), which can refer to either R.C. 2921.331(A) or (B). Only R.C. 2921.331(B) can be the basis of an enhanced offense under R.C. 2921.331(C)(5)(a)(ii).

The only path to a felony conviction for failure to comply with the order or signal of a police officer is through R.C. 2921.331(B). If only one type of failure to comply can lead to a felony, the particular elements of that type of failure to comply constitute one part of the R.C. 2945.75’s “one or more additional elements [that] make[] an offense one of more serious degree.” (Brackets in original.)

Id. at ¶ 22. Therefore, the Court found that not just the elements under R.C. 2921.331(C)(5)(a)(ii) must be listed, but also the elements under R.C. 2921.331(B) must be included, i.e., “the failure to comply involved willful elusion or flight from a police officer.” The Court held, “Without that element, there can be no felony.” *Id.*

{¶25} Because the verdict form in McDonald did not include the elements of R.C. 2921.331(B), the verdict form did not support a felony conviction:

The verdict form in this case does not indicate that the elements of R.C. 2921.331(B) are implicated. Therefore, the verdict form the jury signed does not set forth the additional elements that enhance the crime of failure to comply from a misdemeanor to a felony; it therefore supports only a misdemeanor conviction.

Id. at ¶ 23.

{¶26} Here, Robertson’s verdict form differs from McDonald’s verdict form in one significant respect: Robertson’s verdict form includes the degree of the offense of which he was convicted. If Robertson’s verdict form had not contained the language “the

existence of which raises the degree of the offense to a felony of the third degree,” his verdict form would have the same flaw as McDonald’s verdict form and would have supported only a misdemeanor conviction. However, the verdict form the jury signed to convict Robertson states the degree of the offense. Because it states the degree of the offense, it complies with R.C. 2945.75(A)(2), *Pelfrey*, and *McDonald*. See *McDonald* at ¶ 24 (“a felony verdict form – if it does not state the degree of the offense – must state the elements that distinguishes it from a misdemeanor”).

{¶27} We overrule Robertson’s first assignment of error.

B. Sufficiency and Manifest Weight of the Evidence

{¶28} Robertson contends that his conviction for failure to comply with an order or signal of a police officer was not supported by sufficient evidence and was against the manifest weight of the evidence. He argues that the State failed to prove that “the operation of the motorcycle caused a substantial risk of serious physical harm to persons or property.” He argues that the offense occurred on a Saturday afternoon during light traffic and although he swerved between vehicles, ran a red light, and reached speeds of 120 m.p.h., a police officer testified that the chase was not dangerous. Additionally, he argues that towards the end of the chase, he slowed down.

1. Standard of Review

a. Sufficiency

{¶29} “When a court reviews the record for sufficiency, ‘[t]he 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. Maxwell*, 2014-Ohio-1019, ¶ 146, quoting *State v. Jenks*,

61 Ohio St.3d 259 (1991), paragraph two of the syllabus; following *Jackson v. Virginia*, 443 U.S. 307 (1979); *State v. Bennington*, 2019-Ohio-4386, ¶ 11 (4th Dist.).

{¶30} An appellate court must construe the evidence in a “light most favorable to the prosecution.” *State v. Hill*, 75 Ohio St.3d 195, 205 (1996); *State v. Grant*, 67 Ohio St.3d 465, 477 (1993). Further, “[t]he court must defer to the trier of fact on questions of credibility and the weight assigned to the evidence.” *State v. Dillard*, 2014-Ohio-4974, ¶ 22 (4th Dist.), citing *State v. Kirkland*, 2014-Ohio-1966, ¶ 132; *State v. Lodwick*, 2018-Ohio-3710, ¶ 9 (4th Dist.). Thus, “a reviewing court is not to assess ‘whether the state's evidence is to be believed, but whether, if believed, the evidence against a defendant would support a conviction.’ ” *State v. Davis*, 2013-Ohio-1504, ¶ 12 (4th Dist.), quoting *State v. Thompkins*, 78 Ohio St.3d 380, 390 (1997) (Cook, J., concurring). Rather, a reviewing court will not overturn a conviction on a sufficiency of the evidence claim unless reasonable minds could not reach the conclusion that the trier of fact did. *State v. Tibbetts*, 92 Ohio St.3d 146, 162 (2001); *State v. Treesh*, 90 Ohio St.3d 460, 484 (2001).

b. Manifest Weight

{¶31} In determining whether a criminal conviction is against the manifest weight of the evidence, we must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses, and determine whether, in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that reversal of the conviction is necessary. *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997); *State v. Hunter*, 2011-Ohio-6524, ¶ 119. To satisfy this test, the State must introduce substantial evidence on

all the elements of an offense, so that the jury can find guilt beyond a reasonable doubt. See *State v. Eskridge*, 38 Ohio St.3d 56 (1988), syllabus; *State v. Harvey*, 2022-Ohio-2319, ¶ 24 (4th Dist). Because a trier of fact sees and hears the witnesses, appellate courts court will also afford substantial deference to a trier of fact's credibility determinations. *State v. Schroeder*, 2019-Ohio-4136, ¶ 61 (4th Dist.); *State v. Colonel*, 2023-Ohio-3945, ¶ 50-54 (4th Dist.).

2. Elements of Failure to Comply with an Order or Signal of a Police Officer

{¶32} Robertson was convicted of failure to comply with an order or signal of a police officer in violation of R.C. 2921.331(B) and (C)(5)(a)(ii):

(B) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(C)(1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. . . .

(5)(a) A violation of division (B) of this section is a felony of the third degree if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt: . . .

(ii) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

Robertson contests only the element that his operation of the motorcycle “caused a substantial risk of serious physical harm to persons or property.”

{¶33} The evidence at trial included the testimony of law enforcement officers that testified that during the pursuit, Robertson travelled at various speeds including speeds as high as 120 m.p.h. Even after he began to slow down in New Boston, he still weaved his motorcycle in and out of traffic and ran at least one red light. He eventually slid to a stop in front of a cruiser and, in so doing, flew up over the motorcycle landing in

the middle of the street. During the pursuit, his motorcycle was spewing oil over the roadway, his tires, and the windshield of the cruiser. Additionally, after his slide-crash, his motorcycle began leaking gasoline over the roadway. There was sufficient evidence that Robertson's operation of the motorcycle caused a substantial risk of serious physical harm to persons or property. Even though at one point during the video, Sgt. Woodyard commented that "this is not dangerous," that comment was made during one of Robertson's slower phases, not when he was travelling 90 to 120 m.p.h. Even though there were no other drivers who were injured, and the cruisers were not damaged, there was a substantial risk of such events occurring because of Robertson's reckless operation of the motorcycle. There was sufficient evidence that Robertson's actions caused a substantial risk of serious physical harm to persons or property.

{¶34} We find there was sufficient evidence to support the conviction and the trial court's verdict was not against the manifest weight of the evidence. After viewing the evidence in a light most favorable to the prosecution, we conclude that any rational trier of fact could have found Robertson guilty of failure to comply with an order or signal of a police officer as enhanced by R.C. 2921.331(C)(5)(a)(ii). And, after our review of the record, and after we consider the evidence and testimony adduced at trial and all reasonable inferences therefrom, witness credibility, and the conflicts in the evidence or lack thereof, we do not believe that the jury clearly lost its way so as to create a manifest miscarriage of justice such that Robertson's conviction must be reversed and a new trial ordered.

{¶35} We overrule Robertson's second assignment of error.

IV. CONCLUSION

{¶36} We overrule the assignments of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Lawrence County Court of Common Pleas to carry this judgment into execution.

IF A STAY OF EXECUTION OF SENTENCE AND RELEASE UPON BAIL HAS BEEN PREVIOUSLY GRANTED BY THE TRIAL COURT OR THIS COURT, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. & Abele, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
Michael D. Hess, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.