

COURT OF APPEALS  
LICKING COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO,	:	JUDGES:
	:	Hon. John W. Wise, P.J.
Plaintiff - Appellee	:	Hon. Patricia A. Delaney, J.
	:	Hon. Craig R. Baldwin, J.
-vs-	:	
	:	
MOLLY SLIGHT	:	Case No. 2022 CA 00076
	:	
Defendant - Appellant	:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING:	Appeal from the Licking County Municipal Court, Case No. 22CRB00740
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT:	July 3, 2023
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APPEARANCES:

For Plaintiff-Appellee	For Defendant-Appellant
TRICIA MOORE	CHRIS BRIGDON
Law Director	8138 Somerset Rd.
City of Newark	Thornville, Ohio 43076

By: MICHAEL S. COX, JR,  
Assistant Law Director  
40 West Main Street, Fourth Floor  
Newark, Ohio 43055

*Baldwin, J.*

{¶1} Molly Slight appeals her conviction for Falsification, a violation of R.C. 2921.13(A)(3), a misdemeanor of the first degree. The State of Ohio is Appellee.

### **STATEMENT OF THE FACTS AND THE CASE**

{¶2} Slight claims that her conviction was against the manifest weight of the evidence because she “genuinely believed she owned the items in question and there was no evidence offered to the contrary” and therefore the State failed to demonstrate that she acted “knowingly” as required by R.C. 2921.13. The State counters by stating that the resolution of the trial rested on the trial court’s determination of the credibility of the parties and that this court should not substitute its judgment for the trial court in this context.

{¶3} Slight contacted the Newark Police Department and complained that Veva Selo had stolen her jewelry. When the investigating officer arrived, Slight explained that she had been asked by Veva Selo if she would assist in cleaning some jewelry. She agreed and during the cleaning of the jewelry she recognized several pieces as her own and decided it must have been stolen from where she had stored it. Slight kept those pieces of jewelry she recognized and admitted to the investigating officer that she took them. She called the police department to report the theft after she recovered her property. Slight completed a written statement for the officer, after being explicitly warned of the consequences of filing a false statement or police report as well as for lying to an officer. Slight claimed that “Veva Selo stole my jewelry then brought it back to clean asking me to do so.” (Plaintiff’s Exhibit 1, Slight Written Statement).

{¶4} The officer spoke with the person Slight accused, Veva Selo, and she denied taking any jewelry from Slight. She produced a large bag of costume jewelry similar to the jewelry that Slight had repossessed. The officer noted that the jewelry Selo had in her possession matched the jewelry Slight claims had been stolen. It appeared to the officer to be of the same style, design or nature. (Trial Transcript, p. 25, line 20 to p. 26, line 3). Selo also showed the officer Facebook photographs showing her wearing the jewelry Slight claimed she had stolen.

{¶5} Selo and Slight share an interest in jewelry and Selo recalled that she and Slight were cleaning jewelry that was stored in three gallon-sized zip-lock bags when Selo was called away to console a New Beginnings Resident, leaving Slight alone with the jewelry. Selo was not aware anything was missing until she was informed of Slight's allegation. Upon review of the pieces of jewelry Slight claimed were stolen, Selo identified five as her property and confirmed that she did not give Slight permission to take them.

{¶6} Slight testified on her own behalf and claimed that the jewelry she claimed Selo had stolen was not costume jewelry, but contained valuable gemstones. She claimed she offered to purchase the items from Selo while they were cleaning them, but Selo declined her offer. Slight was not able to explain why Selo would steal jewelry from her then ask her to help with the cleaning of the stolen property. And she was unable to explain how Selo had pictures of herself wearing the jewelry that Slight had described as stolen.

{¶7} Slight was charged with a violation of R.C. 2913.02(A)(1), Theft, and R.C. 2921.13(A)(3) Falsification. She elected to have the matter decided by the trial court and

waived a jury. At the close of the evidence, the court found Slight guilty of all charges. Slight filed a timely appeal and submitted two assignments of error:

{¶8} “I. SHOULD THIS HONORABLE COURT REVERSE THE CONVICTION, OR VACATE THE CONVICTION, OF FALSIFICATION IN VIOLATION OF R.C. § 2921.13 A MISDEMEANOR IN THE 1ST DEGREE BECAUSE THE CONVICTION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

{¶9} “II. SHOULD THIS HONORABLE COURT REVERSE THE CONVICTION OF FALSIFICATION IN VIOLATION OF R.C. § 2921.13 A MISDEMEANOR IN THE 1ST DEGREE BECAUSE DEFENSE COUNSEL WAS INEFFECTIVE WHEN IT FAILED TO MOVE THE TRIAL COURT PURSUANT TO CRIM.R. 29(A).”

### **STANDARD OF REVIEW**

{¶10} Slight contends her conviction for Falsification was against the manifest weight of the evidence. In determining whether a conviction is against the manifest weight of the evidence, the court of appeals functions as the “thirteenth juror,” and after “reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be overturned and a new trial ordered.” *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541, 547 (1997) quoting *State v. Martin* (1983), 20 Ohio App.3d 172, 175, 20 OBR 215, 219, 485 N.E.2d 717, 720–721 Reversing a conviction as being against the manifest weight of the evidence and ordering a new trial should be reserved for only the “exceptional case in which the evidence weighs heavily against the

conviction.” *Id. See State v. Acker*, 5th Dist. Holmes No. 22CA008, 2023-Ohio-2085, ¶ 36.

{¶11} The trial court's decision should not be disturbed as against the manifest weight of the evidence if the decision is supported by some competent and credible evidence. *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279, 376 N.E.2d 578 (1978). A reviewing court should not reverse a decision simply because it holds a different opinion concerning the credibility of the witnesses and evidenced submitted before the trial court. *Geary v. Geary*, 5th Dist. Delaware, 2015-Ohio-259, 27 N.E.3d 877.

## ANALYSIS

### I.

{¶12} In her First Assignment of Error, Slight contends that her conviction is against the manifest weight of the evidence because she “genuinely believed she owned the items in question and there was no evidence offered to the contrary. The first element of Falsification is “knowingly” making a false statement. Here, the knowingly element was not fulfilled based on the evidence in the record, therefore the conviction must be vacated.” (Appellant’s Brief, p. 4).

{¶13} R.C. 2901.22(B) sets forth the definition of how and when a person acts knowingly:

A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense,

such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

{¶14} “Whether a person acts knowingly can only be determined, absent a defendant's admission, from all the surrounding facts and circumstances, including the doing of the act itself.” *State v. Johnson*, 56 Ohio St.3d 35, 38, 381 N.E.2d 637, 56 Ohio St.2d 35 (1978) *citing State v. Huffman*, 131 Ohio St. 27, 1 N.E.2d 313 (1936); *State v. Rojas*, 64 Ohio St.3d 131, 139, 592 N.E.2d 1376 (1992); *State v. Huff*, 145 Ohio App.3d 555, 563, 763 N.E.2d 695 (1st Dist. 2001). (Footnote omitted.) Thus, “[t]he tests for whether a defendant acted knowingly is a subjective one, but it is decided on objective criteria.” *Id. citing State v. Adams*, 4th Dist. Ross No. 94 CA 2041, 1995 WL 360247(June 8, 1995) and *State v. Paidousis*, 10th Dist. Franklin No. 00AP-118, 2001 WL 436079 (May 1, 2001). *See also, State v. Butler*, 5th Dist. Holmes No. 2012-CA-7, 2012 WL 5306217, 2012-Ohio-5030, ¶ 25.

{¶15} Slight was charged with knowingly mak[ing] a false statement, \* \* \* with purpose to mislead a public official in performing the public official's official function.” (R.C. 2921.13(A)(3)). She insists in her brief that she firmly believed that the jewelry was hers when she made the statement and, therefore, she did not knowingly make a false statement. While Slight has denied that she committed the offense, the trial court as fact finder, “ ‘ \* \* is free to believe all, some, or none of [her] testimony.’[*State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967)]. The trier of fact “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, 674 N.E.2d 1159 (1997).”

*Bittner v. Bittner*, 5th Dist. Delaware No. 16 CAF 10 0043, 2017-Ohio-7498, ¶ 69. The trial court had the discretion to reject her testimony as not credible.

{¶16} The record contains competent, credible evidence to support a rejection of Slight's testimony. Slight's contention that Selo stole the jewelry and asked her to assist in cleaning it can be interpreted as straining belief. The fact that the investigating officer reported that Selo possessed jewelry of the same style as the allegedly stolen items and showed him photographs of her wearing some of those pieces also raises doubt about the veracity of Slight's claims. Slight's act of taking the jewelry and then reporting the theft also raises questions about her judgment and credibility.

{¶17} We find that the trial court's decision was supported by competent credible evidence and that the evidence does not weigh heavily against the judgment.

{¶18} The First Assignment of Error is denied.

## II.

{¶19} Slight contends that she received ineffective assistance of counsel because he failed to move for dismissal of the charge of Falsification when there was no evidence that she knowingly made a false statement, in her Second Assignment of Error. Slight's argument in this context would be successful only if we were persuaded that her First Assignment of Error was valid. Because we rejected that Assignment of Error and because the evidence upon which the rejection was based is contained within the State's case-in-chief, this Assignment of Error must also be rejected.

{¶20} The Second Assignment of Error is denied.

**{¶21}** The judgment of the Licking County Municipal Court is affirmed.

By: Baldwin, J.

Wise, John, P.J. and

Delaney, J. concur.