[Cite as *State v. Camble*, 2026-Ohio-4664.]

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
STARK COUNTY, OHIO

STATE OF OHIO, Plaintiff - Appellee -vs- THEODORE DEVONTE CAMBLE, Defendant - Appellant	Case No. 2026-CA-00025 Opinion & Judgment Entry Appeal from the Court of Common Pleas of Stark County, Case No. 2025-CR-0304B Judgment: Affirmed Date of Judgment: November 23, 2026

BEFORE: William B. Hoffman, Robert G. Montgomery, and David M. Gormley, Judges

APPEARANCES: Kyle L. Stone (Stark County Prosecuting Attorney) and Christopher A. Piekarski (Assistant Prosecuting Attorney), Canton, Ohio, for Plaintiff-Appellee; D. Coleman Bond, Canton, Ohio, for Defendant-Appellant.

Gormley, J.

{¶1} Defendant Theodore Camble challenges his burglary conviction, arguing that the prosecution presented insufficient evidence and that his conviction was not supported by the manifest weight of the evidence. He claims, too, that some video recordings should not have been admitted as exhibits at his trial, and he alleges that his new-trial request should have been granted due to what he claims was misconduct by a juror. After examining each of these arguments in turn, we see no error in the trial court's proceedings, and we therefore affirm the judgment.

The Key Facts

{¶2} Early one morning, burglars entered an apartment in Canton and stole several items while the tenant was away. Criminal charges against Camble and others followed.

{¶3} Four video recordings from the building's security cameras were played for jurors at the trial in Camble's case, and on those recordings, a person whom a law-enforcement officer identified as Camble can be seen communicating with the burglars before they entered and after they emerged from the burgled apartment. Though Camble's trial counsel — relying on testimony from a defense witness at the trial — urged jurors to find that Camble had been running an errand at the time and had simply happened by chance to see the burglars in action at around 2:00 a.m., the State alleged that Camble had in fact served as a lookout for the burglars and that he actively cooperated with them. Jurors found Camble guilty on an F2 burglary charge.

{¶4} Soon after the verdict was announced, Camble's counsel told the State and the trial judge that juror misconduct may have occurred during the trial. That news prompted the trial judge to schedule a post-trial hearing where the judge questioned two persons in turn.

{¶5} The first of those was Camble's girlfriend. She told the judge that she had engaged in a midtrial courthouse-hallway conversation with the father of one of the jurors, and that father had purportedly said that he and the juror, during an overnight recess in the trial, had talked about the case and had conducted an online search into the background of one of the prosecutors.

{¶6} The judge next spoke with the juror in question. That person denied speaking with her father about the case during any trial recesses, denied doing any mid-trial online searching for information tied to the case or its participants, and denied that her father had attended the trial. That juror did acknowledge that she had, during an evening recess in the trial, told a friend of hers that reaching a verdict would be difficult, that she was "going back and forth" as she reflected on the testimony, and that she tries to "believe in the innocence

and the good in people." That friend, the juror explained to the judge at the post-trial hearing, had not yet attended the trial when the juror told those things to that friend, and the juror also informed the judge that her friend never expressed any opinions to her about the case while the trial was going on.

{¶7} After hearing from Camble's girlfriend and from the juror, the trial judge concluded that no juror misconduct had occurred and that the jury's verdict need not be set aside. Camble now appeals.

The State Presented Sufficient Evidence to Support the Burglary Charge

{¶8} "When reviewing the sufficiency of the evidence, an appellate court does not ask whether the evidence should be believed but, rather, whether the evidence, 'if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt.'" *State v. Pountney*, 2018-Ohio-22, ¶ 19, quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. "'The relevant inquiry is whether, after viewing the evidence in the 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. Howell*, 2020-Ohio-174, ¶ 28 (5th Dist.), quoting *Jenks* at paragraph two of the syllabus. A "verdict will not be disturbed unless the appellate court finds that reasonable minds could not reach the conclusion reached by the trier-of-fact." *State v. Dennis*, 79 Ohio St.3d 421, 430 (1997).

A. The Apartment's Tenant Was "Present or Likely to be Present"

{¶9} Camble argues that because the tenant of the burgled apartment routinely left each evening and came back the next morning while the apartment was being remodeled, that unit in the apartment building was not a place where a person was — in the words of the relevant burglary-offense provision in R.C. 2911.12(A)(2) — "present or likely to be present"

at the early-morning hour when the crime took place. We conclude, however, that the State's evidence on this element of the offense was sufficient.

{¶10} To be sure, two judges on our court sided several years ago with a burglary defendant on a manifest-weight challenge where the crime victim had "testified that she was not normally home when the burglary occurred" and where that victim had "not testif[ied] that she or anyone in her family was in and out on the day in question or that she or anyone in her family was likely to return home at varying times." *State v. Broyles*, 2010-Ohio-1837, ¶ 34 (5th Dist.) (quotations omitted). Yet the third judge on our court who heard that appeal disagreed, so the two-judge majority had no authority to overturn the judgment on manifest-weight grounds. *Id.* at ¶ 49 (Gwin, P.J., dissenting). *See* Ohio Const., art IV, § 3(B)(3) ("No judgment resulting from a trial by jury shall be reversed on the weight of the evidence except by the concurrence of all three judges" who hear the appeal).

{¶11} Though we therefore view the opinion from the two-judge majority in that manifest-weight appeal as dicta, we note that Ohio appellate courts, including this one, have repeatedly turned aside sufficiency-of-the-evidence challenges involving burglary's likely-to-be-present element. *See, e.g., State v. Eberhardt*, 2020-Ohio-4124, ¶ 27-28 (5th Dist.) (the evidence was sufficient where a home's occupant was "in the process of moving out" and had been there earlier that same day); *State v. Lodwick*, 2018-Ohio-3710, ¶ 22 (4th Dist.) ("the issue is not whether the burglar subjectively believed that persons were likely to be there, but whether it was objectively likely") (brackets and quotations omitted); *State v. Hibbard*, 2003-Ohio-707, ¶ 19 (12th Dist.) (the evidence was sufficient where the victim testified that the home in question was his permanent residence and he had been "in and out of the home on the day in question"); *id.* at ¶ 21-22 (the evidence was sufficient where a second victim was in

the process of moving and was "going back and forth between her old residence and her new home"); *State v. Kilby*, 50 Ohio St.2d 21, 25 (1977) (the focus is on the "type and use of the occupied structure and not literally whether individuals will be home from work or play at a particular time").

{¶12} At Camble's trial, testimony indicated that the resident of the apartment was present every day, though he often left in the evening and returned in the morning. His personal belongings and furniture were in the apartment, and food was on the premises too.

{¶13} Construing the evidence most strongly in the State's favor on Camble's sufficiency-of-the-evidence challenge, we conclude that the State did meet its burden of showing that the tenant was likely to be present when the crime occurred. The tenant was typically in and out of the apartment daily and was using it as his ongoing residence. The testimony about those facts gave the jurors an objective basis for concluding that someone was likely to be present at around 2:00 a.m. when the burglars entered.

B. Camble's Identity as the Person on the Security Videos Was Established with Sufficient Evidence

{¶14} Camble argues that the State's proof on the burglary charge was insufficient where no witness pointed to Camble in the courtroom and told jurors that he was the perpetrator. We readily dispense with this argument, just as other courts had done in similar circumstances. *See, e.g., State v. Tate*, 2014-Ohio-3667, ¶ 19 ("A witness need not physically point out the defendant in the courtroom as long as there is sufficient direct or circumstantial evidence proving that the defendant was the perpetrator"); *State v. Jones*, 2024-Ohio-4538, ¶ 14 (3d Dist.) ("there is no requirement that a defendant be specifically identified as the perpetrator of a crime by a witness testifying in court") (brackets and quotations omitted); *State v. Crawley*, 2023-Ohio-1492, ¶ 46 (10th Dist.) ("Many courts have condoned proof of

identity by a jury's comparison of surveillance images with the appearance of the defendant in the courtroom").

{¶15} Camble's sufficiency-focused assignment of error is overruled.

Camble's Manifest-Weight Argument Comes Up Short

{¶16} Camble claims next that his conviction on the burglary charge was against the manifest weight of the evidence because two defense witnesses testified at the trial that Camble played no role in the crime.

{¶17} In determining whether a conviction was against the manifest weight of the evidence, an appellate court acts "as a '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 [reversed] and a new trial ordered.'" *State v. Hane*, 2025-Ohio-120, ¶ 20 (5th Dist.), quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997). The reversal of a conviction on manifest-weight grounds should occur only in "the 'exceptional case in which the evidence weighs heavily against the conviction.'" *Id.*

{¶18} Jurors were of course free to question the credibility of Camble's witnesses, one of whom was a convicted felon. Camble's argument at the trial that he was simply in the wrong place at the wrong time and that he provided no assistance to the persons who trespassed in the apartment was a claim that appeared to run counter to the State's evidence. The crime occurred at roughly 2:00 a.m., and Camble can be seen on the video recordings waiting in a parking lot, speaking with the soon-to-be burglars when they arrive, standing outside the apartment when the burglars are inside it, and then gesturing to them as they exit.

And though one of Camble's witnesses testified that she sent Camble out at that hour to pick up some food, he returned to that person's apartment with no food in tow once the burglars had departed.

{¶19} Our review of the evidence indicates that this is not the exceptional case where the evidence weighs heavily against Camble's conviction as an aider and abettor to the burglary. Though the parties presented competing interpretations of the evidence, we cannot say that the jury clearly lost its way and created a manifest miscarriage of justice by coming down on the side of a guilty verdict. We therefore deny Camble's manifest-weight challenge.

The Video Recordings Were Properly Authenticated

{¶20} Camble's third argument focuses on the four video recordings that the State presented to jurors during the trial. A detective's authentication of those exhibits was inadequate, Camble says, given that the detective was not present at the time of the burglary and was not the custodian of the recordings. In Camble's view, those recordings should not have been admitted as trial exhibits.

{¶21} Yet Camble did not object when the video recordings were played for the jurors or when witnesses testified about them. And though he did object near the trial's end when the parties and the trial judge were discussing the admissibility of multiple exhibits, Camble's challenge to the admission of the video recordings at that point focused only on the chain of custody for them rather than on their authenticity.

{¶22} In any event, we see no abuse of discretion in the trial judge's decision to admit the recordings as trial exhibits. After all, "[t]he burden to authenticate evidence is not high." *State v. Reynolds*, 2026-Ohio-2599, ¶ 59 (1st Dist.) (explaining, at paragraph 58, that "the authentication requirement is satisfied when the proponent presents foundational evidence or

testimony from which a rational trier of fact may determine that the evidence is what its proponent claims it to be") (brackets and quotations omitted).

{¶23} We have noted that circumstantial or direct evidence may be used to show authenticity. *State v. Lewis*, 2022-Ohio-1850, ¶ 30 (5th Dist.). And under the so-called silent-witness theory, a video recording is treated as a "silent witness" that "speaks for itself" and is rightly regarded as "substantive evidence of what it portrays independent of a sponsoring witness." *State v. Smith* 2024-Ohio-2416, ¶ 30 (5th Dist.) (explaining that "[t]estimony from an individual with personal knowledge of the surveillance system's recording process is not required"). *See also Midland Steel Prods. Co. v. U.A.W. Local 486*, 61 Ohio St.3d 121, 130 (1991) (lay-witness testimony from a company employee about the layout of the areas shown on a video recording "impliedly authenticated the accuracy of the surveillance system" used to produce the recording, thus making it admissible under the silent-witness theory).

{¶24} Here, the trial court had an ample basis to find that the now-challenged videos were properly authenticated. The law-enforcement officer who testified when they were shown to the jury told jurors that he was familiar with the apartment complex and had been there on several occasions. He was also familiar with the building's staff and the site's surveillance system. No abuse of discretion or plain error occurred when the video recordings were admitted as trial exhibits.

Camble Failed to Establish Juror Misconduct.

{¶25} In his final argument, Camble claims that the trial court should have ordered a new trial due to alleged juror misconduct. A trial court's ruling on a motion for new trial based on juror misconduct will be reversed only for an abuse of discretion. *State v. Fricke*, 2016-Ohio-2747, ¶ 52 (2d Dist.).

{¶26} Criminal Rule 33(A)(2) calls for a two-step inquiry when juror misconduct is alleged. "First, it must be determined whether . . . misconduct actually occurred." *State v. Nian*, 2022-Ohio-3639, ¶ 27 (5th Dist.) (quotations omitted). And if it did, then the trial court must determine "whether the misconduct materially prejudiced the defendant's substantial rights." *Id.* (quotations omitted).

{¶27} The inquiry in this case ended with the first step because the trial court found no support for Camble's juror-misconduct allegation. The trial judge reached that conclusion after holding a post-trial hearing where both the judge and counsel for both parties had an opportunity to pose questions not only to the juror allegedly involved in the misconduct but also to Camble's girlfriend (who had purportedly uncovered that alleged misconduct).

{¶28} The girlfriend's claim that she had spoken with the juror's father was disputed at the post-trial hearing by the juror herself, and the same was true for the girlfriend's story that the juror had talked with the juror's father about the case and had conducted a midtrial online search for information about one of the prosecutors. The trial judge could reasonably have viewed with suspicion the girlfriend's story, given that the juror herself denied key parts of it.

{¶29} What the juror did acknowledge is that she had spoken one evening with a friend of hers while the trial was still going on. The juror, though, said at the post-trial hearing that that conversation had simply entailed the juror musing aloud that deciding the case would be hard because the juror liked to think the best about others and wanted to "believe in the innocence" of most people. The juror said at the post-trial hearing that she had not conducted any online searches about the case or its participants, and her friend, she told the judge, had not said anything to her about the case until after her jury service ended.

{¶30} Based on the record before us, we see no reason to second-guess the trial judge's finding that no juror misconduct occurred. Certainly, that finding cannot rightly be characterized as an abuse of discretion.

{¶31} For these reasons, the judgment of the Court of Common Pleas of Stark County is affirmed. Any costs are to be paid by Appellant Theodore Camble.

By: Gormley, J.;

Hoffman, P.J. and

Montgomery, J. concur.