

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

CITY OF SOUTH EUCLID, :
 :
 Plaintiff-Appellee, :
 : No. 111962
 v. :
 :
 EDGAR HARDIN, :
 :
 Defendant-Appellant. :
 :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: July 13, 2023

Criminal Appeal from the South Euclid Municipal Court
Case No. TRD 2001496A

Appearances:

Brian M. Fallon, Assistant Prosecuting Attorney for City of
South Euclid, *for appellee*.

Edgar Hardin, *pro se*.

LISA B. FORBES, P.J.:

{¶ 1} Edgar Hardin (“Hardin”), acting pro se, appeals his convictions for violating two South Euclid Codified Ordinances as a result of a motor vehicle accident that occurred on October 3, 2020. After reviewing the facts of the case and pertinent law, we affirm the trial court’s decision.

I. Facts and Procedural History

{¶ 2} On October 3, 2020, Hardin was issued a traffic citation alleging that he violated two South Euclid Codified Ordinances. The first is South Euclid Codified Ordinances 331.14, which states, in part, that “[n]o person shall turn a vehicle or move right or left upon a highway unless and until the person has exercised due care to ascertain that the movement can be made with reasonable safety, nor without giving an appropriate signal * * *.” The second is South Euclid Codified Ordinances 335.12, which states, in part, that “[i]n the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator’s motor vehicle at the scene of the accident or collision.”

{¶ 3} Hardin contested the citation, and this case proceeded to a bench trial on September 6, 2022. The court found Hardin guilty of both charges and ordered Hardin to pay a \$50 fine for each charge, court costs, and \$610 in restitution.

{¶ 4} Hardin now appeals, pro se, raising verbatim six assignments of error for our review:

I. The court failed to uphold the presiding judgments of (Judge Gayle Williams Byers) whom was the official judge that heard this case from October 3, 2020 until her departure in July 2022.

II. The court failed to uphold the rules under (EXCLUSIONARY RULES) allowing a hearsay documentation alleging a criminal aspect of insurance fraud that has no signatures, doesn’t state any credible aspect of why I was sent to the alleged perpetrator that this was standard customary and in what expect a claim was denied.

III. The court under the same guise did not admit into record a documentation directly related and much more valid that was also present at court and presented as evidence.

IV. The court and directed a (fill-in judge) allowed irrelevance pictures not taken at the scene by the prosecution and furthermore pictures showing no as evidence damages whatsoever at the scene, as far as scratches dents etc nor was there actual police representative at the trial to validate statements verse hearsay.

V. The court never proved by valid pictures, tapes, police presence, street cameras, expert witnesses, eye witnesses at the scene, police body cam footage which was available to prove (above reasonable doubt) a accident every occurred furthermore-these documentation were in fact ordered to be available.

VI. It is in error that a case would be sealed in a conviction, at the testimony by the prosecution from beginning to end regarding a allegedly insurance fraud that was attempted.

{¶ 5} We address Hardin’s assignments of error out of order for ease of discussion.

II. Trial Testimony

A. Nicola Walker

{¶ 6} Nicola Walker (“Walker”) testified that on October 3, 2020, at approximately 2:30 p.m., she was driving a Chevy Malibu rental car (“the Malibu”) on South Green Road in South Euclid. Walker, who was heading north, was in the far-right lane stopped at a red light on the corner of South Green Road and Monticello Boulevard. Hardin was driving a semi-tractor without the trailer (“the tractor”), and he was also heading north on South Green Road. Hardin’s vehicle was in the left lane, and “he attempted to change lanes to move into the curb lane” when he hit the Malibu. According to Walker, she honked her horn, and Hardin “turned

his wheel to move away from the Malibu, and he went straight — he went straight a little bit just enough to get the tractor past the Malibu, and he went right into the right lane, and he turned the corner onto * * * Monticello.”

{¶ 7} Walker testified that there are “two stairs” on the “bottom part” of the right side of the tractor leading to the passenger door, and these stairs made contact with “[t]he very front, * * * by the tire” of the driver’s side of the Malibu. Walker testified as follows about what happened next:

When he hit me, I honked my horn, because I couldn’t believe he hit me. And so I honked the horn, and then I guess he realized that he hit me so he couldn’t go forward, because his tractor was right on the Malibu, so he turned his wheel trying to get away from the Malibu. And then he went straight and then made a turn to actually turn onto Monticello.

{¶ 8} Walker further explained that, after Hardin made the right turn onto Monticello in front of the Malibu, she also turned right and followed Hardin.

So I was honking my horn, and as I see that he wasn’t paying me any attention to still honking my horn, I went into the left lane and pulled up next to him to where, you know, he could see down and I’m honking my horn, and he still kept going. So then I slowed down to get back behind him, and that’s when I called 911.

{¶ 9} According to Walker, when she pulled up beside Hardin on Monticello, “[h]e just kept driving straight. * * * He would not look at me.”

{¶ 10} Hardin turned left on Richmond Road, and Walker kept following him while she was on the phone with the 911 operator. As they approached the next major intersection, “the police were already waiting down there, and they were kind of pulled over to the side, but one of them had his lights on, and I think [Hardin] just

continued to go straight, and another police kind of just pulled in front of him to kind of stop him, because I think he was just going to keep going.”

{¶ 11} Eventually Hardin stopped and pulled over to the side of the road. Walker also pulled the Malibu to the side of the road, and the police took statements from Hardin and Walker. Walker testified that Hardin was trying to show how the tractor could not have made contact with the Malibu. However, according to Walker, “the police determined that [Hardin] did make contact * * *. And then they determined that he was at fault * * *.” Walker testified that she did not receive a traffic citation as a result of the incident.

{¶ 12} Walker testified that State Farm is her car insurance company, but she did not think that she “had to call them because clearly he was at fault, so I was just going to let it go through his insurance company.” However, a “few days later” Walker received a call from a State Farm representative who told her she needed to file a claim because Hardin had tried to file a claim against Walker’s insurance.

B. Hardin

{¶ 13} Hardin testified that he has been a “commercial class A truck drive[r] for the past ten years.” He is “certified with every endorsement” and has been through “training.” Hardin testified that “all trucks make wide turns.” Specifically, “all right-hand turns per, DOT law and regulations, must be a wide turn, otherwise we stand the risk of hitting a telephone pole, the curve, or anything else that the back of our vehicle might * * * strike, if we don’t make a wide turn.”

{¶ 14} Hardin testified that, on October 3, 2020, at approximately 2:30 p.m., he was driving home in the tractor. Asked what street he was on, Hardin testified as follows: “[W]hen this happened, the only thing that I can really testify to with honesty is when the police surrounded me. Three police cars surrounded me. Before that, I didn’t know anything.” Asked if he remembered being at the intersection of South Green Road and Monticello, Hardin answered as follows:

Well, they asked me this question, Your Honor, when this happened. And I was nervous with three officers, you know, surrounding me. And I’m — I didn’t really know what happened because I did — if something even happened I was not knowingly of anything. So I was startled and I’m trying to get my story and my facts straight.

Now, this is what I can say, do I travel on Green Road? Yes. And do I make a turn right and the next street is a left on Highland, which is where I was stopped like ten feet from making that left hand turn on Highland where I turned to go home. I live — lived at the time off Highland.

And so I told the officers, yes, I could’ve turned off Green, but when they approached me to hitting someone, my story has been consistent since then. Because even if it did happen — here’s the facts here. Just dealing with the facts.

I’m in a 2000 rig, brand new, okay? All the windows is closed. My air is up. So listen, even given the benefit of the doubt if somebody was trying to get my attention, I wouldn’t have heard them. Then if you look at the facts with these minor scrapes, which mind you, are in four locations but they’re all minor for the total of \$620.

A tractor trailer, number one, let alone even a car with those lot of scrapes might not have knowingly knew that they did it. It’s like something just scraped and touched her. So —

{¶ 15} At this point during Hardin’s testimony, his attorney stopped him and reminded him of the question asked: “[Y]ou were driving up South Green Road at some point, correct?” Hardin answered, “Yes.” Hardin denied seeing Walker and

the Malibu until he “was pulled over at the alleged accident scene by the three officers * * *.” Hardin further denied hearing Walker honking the Malibu’s horn, and he denied knowing that the police were trying to pull him over. According to Hardin, the “police actually to get my attention, pulled in front of me.” Hardin further testified that he “didn’t really go far, if something had happened, which I adamantly don’t think it did, at that point.”

{¶ 16} Asked on cross-examination if there was a collision, Hardin testified as follows: “[L]isten, I don’t know what happened to * * * Walker. I don’t know what day, what hour something happened.” Asked if he is “supposed to make wide right turns from the wrong lane,” Hardin answered as follows:

Sir, I’m not going to tell you I was in a wrong lane. That’s what you’re saying. And that’s what your client is saying. Mind you, not taking into consideration that it was impossible for it to happen due to injury sustained and how they were sustained on her vehicle. It couldn’t have happened.

Hardin’s testimony on cross-examination continued:

Q: Okay. So you deny being on South Green.

A: I never denied that.

Q: Were you on South Green Road?

A: Could’ve been. I could’ve been making that turn; I could’ve been.

Q: Well that’s what we’re here to find out. Did you make that turn?

A: Sir, I can only tell you what I told the officers.

Q: Why don’t you answer my question? Did you make that turn?

A: I don’t know.

Q: You don't know?

A: No, I don't know if I was in the same place as * * * Walker at that time. I don't know that.

* * *

Q: Okay. And you indicated that you couldn't hear anything because you're high up in your truck, right?

A: No, I didn't know nothing was going on.

Q: Okay. So if there was a horn honking, you wouldn't have been able to hear it, right?

A: I hear horns honking all day. Why would I even know if a horn was honking if it was at me? I can't tell you that. This all happened very quickly, sir.

Q: Okay. Well I'm just suggesting to you, it might be kind of a safety issue that you couldn't hear anything in your truck. You said a police car had to pull in front of you to stop you.

A: That's right.

Q: Okay. So maybe you had trouble hearing in your truck? Is that a possibility?

A: Sir, I don't know where you're going with that. I don't think it's any possibility. I have a valid license clean, like I already stated. I took the eye, the ear, all that * * * [.] I hear fine and I can see fine.

Q: Okay. Then why did a police [officer] have to pull in front of you and stop your truck to get your attention?

A: You know what, sir, I answered that already. Because I didn't know they were there.

Q: Did they have the lights on?

A: My lights are on during the daytime and night.

Q: Not your lights, the police?

A: When they pulled in front of me, they just put the lights on. It happened quick, man.

{¶ 17} During Hardin’s testimony, he was asked about a December 10, 2020 letter he received from State Farm, which states in part as follows: “In the absence of legal liability, we would not be justified in making settlement; therefore, we must deny payment of this claim.” According to Hardin, he did not attempt to file an insurance claim regarding this incident. Rather, Hardin explained the State Farm letter as follows: “[T]he police officer made a mistake on the report, and they put my name as the alleged victim, right? And the whole police report, if you review it, is backwards. It’s crystal clear.” Hardin testified that “when the insurance company contacted me by letter, they actually thought I was driving the Malibu.”

III. Trial Exhibits

{¶ 18} South Euclid introduced the following into evidence at trial:

- Two photographs of the Malibu showing minor scratches on the driver’s side front bumper near the wheel well and two photographs of the tractor, one of which showed minor scrapes on the passenger-side step-up into the tractor’s cab.
- An October 28, 2020 document from Hertz titled “On Lot Dent Wizard Repair” for the Malibu, which estimated the repairs for damage to the left front fender and bumper at \$610.
- A copy of Hardin’s Ohio Law Enforcement Gateway report showing 16 convictions for traffic violations, four motor vehicles accidents, and two driver’s license suspensions, which the prosecutor used to impeach Hardin’s testimony that he had a “clean” driving record.

- The October 3, 2020 Traffic Crash Report concerning the incident at issue in this case filled out by a South Euclid Police officer. The narrative portion¹ of this report states as follows:

Unit 1 was on South Green Road northbound stopped at the red light at Monticello Blvd. Unit 2, a semi-tractor without a trailer, was stopped in the second lane from the curb directly next to unit 1. Unit 2 moved from the second lane into the curb lane with the intention of turning east * * * onto Monticello Blvd. Unit 2 struck unit 1 when changing lanes.

Unit 2 denied striking unit 1.

Unit 1 followed unit 2 into Richmond Hts, called police and RHPD units eventually stopped unit 2 on Richmond Road at Highland Road. There was fresh damage to both units at the same height and in corresponding locations. Both drivers provided the same description of what took place, except unit 2 stated he did not hit unit 1. Unit 1 attempted to get unit 2 to stop by honking her horn and trying to flag him over, however the driver did not stop his unit until contacted by police.

- The December 10, 2020 letter to Hardin from State Farm, which states in part as follows: “In the absence of legal liability, we would not be justified in making settlement; therefore, we must deny payment of this claim.”

{¶ 19} Hardin introduced into evidence one exhibit at trial, which is a picture he took of the scrapes on the driver’s side of the Malibu near the front tire. According to Hardin, his tractor could not have made those scrapes because the “exact spot” of the tractor did not line up with “any damage area” shown in the photo.

¹ Elsewhere in this report, under the “Unit” descriptions, the tractor is listed as “Unit 1” and the Malibu is listed as “Unit 2.” This appears to be a mistake. It is undisputed that Hardin was issued a traffic citation for this accident, and Walker was not issued a citation.

IV. Law and Analysis

A. Pro Se Litigants

{¶ 20} The Ohio Supreme Court has “repeatedly declared that ‘pro se litigants * * * must follow the same procedures as litigants represented by counsel.’” *State ex rel. Neil v. French*, 153 Ohio St.3d 271, 2018-Ohio-2692, 104 N.E.3d 764, ¶ 10, quoting *State ex rel. Gessner v. Vore*, 123 Ohio St.3d 96, 2009-Ohio-4150, 914 N.E.2d 376, ¶ 5. “It is well-established that *pro se* litigants are presumed to have knowledge of the law and legal procedures and that they are held to the same standard as litigants who are represented by counsel.” (Emphasis sic.) *Sabouri v. Ohio Dept. of Job & Family Servs.*, 145 Ohio App.3d 651, 654, 763 N.E.2d 1238 (10th Dist.2001).

B. Manifest Weight of the Evidence

{¶ 21} We first review Hardin’s fifth assignment of error, which concerns the weight of the evidence introduced at trial. As stated previously, Hardin was convicted of two traffic violations concerning changing lanes without exercising due care and failing to stop at the scene of an accident.

{¶ 22} A manifest weight of the evidence challenge “addresses the evidence’s effect of inducing belief. * * * In other words, a reviewing court asks whose evidence is more persuasive — the state’s or the defendant’s?” *State v. Wilson*, 113 Ohio St.3d 382, 2007-Ohio-2202, 865 N.E.2d 1264, ¶ 25. “When a court of appeals reverses a judgment of a trial court on the basis that the verdict is against the weight of the evidence, the appellate court sits as the ‘thirteenth juror’ and disagrees with the

factfinder's resolution of the conflicting testimony." *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Reversing a conviction under a manifest weight theory, "should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction." *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

{¶ 23} Upon review of the trial testimony, we find that Walker testified that the tractor hit the front driver's side of the Malibu, while the Malibu was stopped at a red light, when Hardin tried to move from the left northbound lane on South Green Road into the right northbound lane. Walker honked her horn to get Hardin's attention, but Hardin moved his tractor around the Malibu and made a right turn onto Monticello Boulevard. Hardin continued driving, and Walker followed him while continuously honking her horn. Walker called 911, and Hardin did not stop driving until the police surrounded him.

{¶ 24} Walker's testimony is corroborated by the photographs introduced into evidence and the South Euclid Police report of the incident.

{¶ 25} Hardin testified that he had no knowledge of hitting the Malibu. Hardin's testimony is inconsistent with the other evidence introduced at trial, and at times, Hardin's testimony is inconsistent with itself. For example, Hardin initially testified that "if somebody was trying to get my attention, I wouldn't have heard them." Hardin later testified that he does not "think it's any possibility" that he would have had "trouble hearing" a horn honking at him while driving his tractor.

{¶ 26} Additionally, Hardin’s testimony was simply not credible regarding several issues. He testified that it was impossible that his tractor caused the scrapes found on the Malibu because the “damage area” did not “line up.” This is inconsistent with Walker’s testimony, the photographs introduced at trial, and the narrative in the police report. Furthermore, even though the damage to both vehicles was minor, Walker testified that after Hardin scraped the Malibu, she honked her horn, and Hardin had to maneuver his tractor around the Malibu to turn right. Hardin’s testimony that he did not know he hit the Malibu is not believable.

{¶ 27} In summary, the weight of the evidence shows that Hardin did not exercise due care when turning the tractor and moving it into the right lane, and, having knowledge of scraping the side of the Malibu, he did not immediately stop at the scene of the accident. Because South Euclid’s evidence was more persuasive, we cannot say that the municipal court’s judgment finding Hardin guilty of the charged traffic violations is against the manifest weight of the evidence. Accordingly, Hardin’s fifth assignment of error is overruled.

C. Admissibility of Evidence

{¶ 28} Generally, the admissibility of evidence is reviewed under an abuse-of-discretion standard. However, when there is no objection to the admissibility of evidence at the trial court, we may only review the matter on appeal for plain error. *State v. Barnes*, 94 Ohio St.3d 21, 27, 759 N.E.2d 1240 (2002). Under the plain error standard, a reviewing court may notice plain errors, but the “court is not

obliged to correct them.” *Id.* (citing Crim.R. 52(B)). To establish plain error, an appellant must show the following:

First, there must be an error, *i.e.*, a deviation from a legal rule. * * * Second, the error must be plain. To be “plain” within the meaning of Crim.R. 52(B), an error must be an “obvious” defect in the trial proceedings. * * * Third, the error must have affected “substantial rights.” We have interpreted this aspect of the rule to mean that the trial court’s error must have affected the outcome of the trial.

Id.

{¶ 29} The Ohio Supreme Court has held the following regarding the admissibility of photographs: “The rule is well settled that photographs * * * are not objectionable so long as they are properly identified, are relevant and competent and are accurate representations of the scene which they purport to portray. Indeed, photographs frequently convey information to the court * * * more accurately than words.” *State v. Woodards*, 6 Ohio St.2d 14, 24-25, 215 N.E.2d 568 (1966).

{¶ 30} In Hardin’s fourth assignment of error, he argues that the court erred by admitting into evidence “irrelevan[t] pictures not taken at the scene by the prosecution and furthermore pictures showing no as evidence damages whatsoever at the scene, as far as scratches dents etc * * *.” It is undisputed that Hardin did not object to the admission of any exhibits, including the photographs, at trial.

{¶ 31} On appeal, Hardin does not identify the photographs admitted at trial with which he takes issue. South Euclid introduced four photographs at trial — two photographs of the Malibu showing the damage caused by the tractor and two

photographs of the tractor. In the interest of being thorough, we review the admissibility of all four photographs.

{¶ 32} First, we find that Walker properly identified the photographs of the Malibu and the tractor as accurate representations of the two vehicles involved in the accident at issue in this case. Second, we find that these photographs are relevant to the issues in this case, namely whether Hardin violated South Euclid Codified Ordinances 331.14 and 335.12 when the tractor hit and damaged the Malibu. Third, we find that the photographs clearly show the minor damage to both vehicles caused by the collision. That the photographs were not taken at the scene of the accident, as Hardin seems to argue under this assignment of error, is immaterial and does not factor into the admissibility of the evidence, particularly because Hardin did not stop at the scene of the accident as required by South Euclid Codified Ordinances 335.12.

{¶ 33} Accordingly, we find no error in the admission of these photographs at trial, and Hardin's fourth assignment of error is overruled.

D. Failure to Follow Appellate Rules

{¶ 34} Upon review, we find that Hardin's first, second, third, and sixth assignments of error violate certain appellate rules.

{¶ 35} App.R. 12(A)(2) states that the "court may disregard as assignment of error presented for review if the party raising it fails to identify in the record the error on which the assignment of error is based or fails to argue the assignment separately in the brief, as required under App.R. 16(A)."

{¶ 36} App.R. 16(A) states that the appellant’s brief shall include * * * under the headings and in the order indicated, all of the following:

- (1) A table of contents, with page references.
- (2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.
- (3) A statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected.
- (4) A statement of the issues presented for review, with references to the assignments of error to which each issue relates.
- (5) A statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the court below.
- (6) A statement of facts relevant to the assignments of error presented for review, with appropriate references to the record in accordance with division (D) of this rule.
- (7) An argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies. The argument may be preceded by a summary.
- (8) A conclusion briefly stating the precise relief sought.

{¶ 37} Hardin’s second and third assignments of error appear to concern the admissibility of “documentation,” but Hardin fails to identify the documents to which he refers. Hardin’s first assignment of error appears to concern “presiding judgments,” but Hardin fails to identify any judgments, other than the final judgment, which we extensively reviewed under his fifth assignment of error, that he is challenging on appeal. Hardin’s sixth assignment of error appears to concern “insurance fraud that was attempted,” but this is not an insurance fraud case.

{¶ 38} Hardin’s appellate brief has no page numbers, and therefore, no page references, which fails to comply with App.R. 16(A)(1) and (2). His brief does not “reference * * * the place in the record where each [assignment of] error is reflected,” which violates App.R. 16(A)(3), (6), and (7). Additionally, Hardin’s brief contains no legal authority to support his first, second, third, and sixth assignments of error, as required by App.R. 16(A)(7). Accordingly, pursuant to App.R. 12 and 16, we disregard the arguments contained in these assignments of error.

{¶ 39} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue of out of this court directing the municipal court to carry this judgment into execution. Case remanded to the trial court for execution of sentence.

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

LISA B. FORBES, PRESIDING JUDGE

EILEEN T. GALLAGHER, J., and
MARY J. BOYLE, J., CONCUR