

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 113158
	:	
v.	:	
	:	
LEANDER BISSELL,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: August 20, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-22-676363-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Carl J. Mazzone, Margaret Graham, Daniel T. Van, and Michael R. Wajda, Assistant Prosecuting Attorneys, *for appellee*.

Law Office of Timothy Farrell Sweeney and Timothy Sweeney, *for appellant*.

EMANUELLA D. GROVES, P.J.:

{¶ 1} This matter is before this court on remand from the Ohio Supreme Court in *State v. Bissell*, 2026-Ohio-1965 (“*Bissell II*”), for further review of our decision in *State v. Bissell*, 2024-Ohio-5317 (8th Dist.) (“*Bissell I*”). The Court

reversed the decision of this court and found that there was sufficient evidence to support the convictions for felony murder and failure to comply with an order or signal of a police officer and remanded the case to this court for further proceedings consistent with these findings.

I. Factual and Procedural History

{¶ 2} The facts have been set out in *Bissell I* and in *Bissell II*, and we will not revisit them here. On November 28, 2022, a grand jury was convened and issued an indictment charging Leander Bissell (“Appellant”) with murder, an unclassified felony pursuant to R.C. 2903.02(B) (Count 1); two counts of felonious assault, felonies of the second degree pursuant to R.C. 2903.11(A)(1) and (A)(2) (respectively, Counts 2 and 3); involuntary manslaughter, a felony of the third degree pursuant to R.C. 2903.04(B) (Count 4); failure to comply, a misdemeanor of the first degree (Count 5); aggravated vehicular homicide, a felony of the third degree (Count 6); and failure to stop at the scene of an accident, a felony of the third degree (Count 7). Each count contained a forfeiture specification seeking forfeiture of a 2004 Chevrolet Malibu used in the commission of the crimes.

{¶ 3} Appellant was found guilty on all charges following a bench trial. For sentencing, the trial court found that Counts 2, 3, 4, and 6 merged into Count 1 and imposed a sentence of 15 years to life imprisonment on Count 1. On Count 5, the trial court imposed a sentence of six months, and on Count 7, the court imposed a one-year sentence. The trial court elected to run Count 7 consecutively to Count 1 for a total period of confinement of 16 years to life. The sentence on the

misdemeanor, Count 5, was ordered to run concurrently with the remaining charges.

{¶ 4} Appellant raised the following assignments of error.

Assignment of Error No. 1

The trial court erred and deprived [Appellant] of due process of law, as guaranteed by the Fourteenth Amendment to the U.S. Constitution and Article I, Section 10 of the Ohio Constitution, by finding [Appellant] guilty of felony murder based on felonious assault (Count 1), and of both counts of felonious assault (Counts 2 and 3) as those verdicts are not supported by sufficient evidence.

Assignment of Error No. 2

[Appellant]’s convictions in Counts 1, 2, and 3, for felony murder and felonious assault, are against the manifest weight of the evidence.

Assignment of Error No. 3

The trial court violated [Appellant]’s constitutional rights, in a case involving a homicide committed by and with his vehicle, when the court found [Appellant] guilty of felony murder with felonious assault as the sole predicate offense, and failed to apply the merger doctrine as adopted in the large majority of U.S. jurisdictions, in violation of the Fifth, Sixth, Eighth, and Fourteen Amendments, U.S. Constitution, and Article I, Sections 9, 10, and 16, of the Ohio Constitution.

Assignment of Error No. 4

[Appellant]’s convictions of involuntary manslaughter and failure to comply with an order of a police officer in Counts 4 and 5 are not supported by sufficient evidence, and thus violate due process, or, at the very least, they are against the manifest weight of the evidence.

II. Law and Analysis

{¶ 5} As we did in the original opinion, we confine our review to the non-merged offenses because those charges comprise a finding of guilt and a sentence. *See State v. Whitfield*, 2010-Ohio-2, ¶ 12. Accordingly, we address Appellant’s

convictions for felony murder (Count 1), failure to comply (Count 5), and failure to stop at the scene of an accident (Count 7). Appellant did not challenge his conviction for failure to stop at the scene of an accident; therefore, we limit our review to the convictions for felony murder and failure to comply with the order or signal of a police officer. Additionally, neither party appealed our ruling on the third assignment of error. Accordingly, we maintain our decision overruling that assignment of error.

{¶ 6} For ease of analysis, we will address the assignments of error out of order beginning with the fourth assignment of error. Appellant challenges his conviction for failing to comply with the order or signal of a police officer arguing it was not supported by the manifest weight or sufficient evidence. The Ohio Supreme Court, in *Bissell II*, reversed our decision finding that there was insufficient evidence to support the conviction. Accordingly, the fourth assignment of error is overruled regarding the sufficiency of the evidence. Because our decision on the weight of the evidence was based on our finding of insufficiency, we reassess the weight of the evidence.

{¶ 7} The “weight of the evidence involves the inclination of the greater amount of credible evidence.” *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997). Weight of the evidence concerns “the evidence’s effect of inducing belief.” *State v. Wilson*, 2007-Ohio-2202, ¶ 25, citing *Thompkins* at 386-387. This court must consider all the evidence in the record, the reasonable inferences to be drawn from it, and the credibility of the witnesses to determine “whether in resolving conflicts

in the evidence, the factfinder 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).

Furthermore,

[a]n appellate court sits as the thirteenth juror only when 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.

State v. Reillo, 2026-Ohio-2701, ¶ 3, citing *State v. Martin*, 2022-Ohio-4175, ¶ 26.

{¶ 8} In the instant case, the record does not reflect that the testimony crossed the threshold of being “so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable.” *Id.* The facts in this case were largely not in dispute. As the Court in *Bissell II* noted:

[W]hen the police officers parked their police vehicles with flashing lights in the left and center-left lanes of the interstate, they communicated a direction to passing motorists like [Appellant] to proceed with caution and to move into the right two lanes of travel.

Bissell II, 2026-Ohio-1965 at ¶ 26.

{¶ 9} Therefore, there is no need for this court to sit as the thirteenth juror and weigh the evidence. The trial court evaluated the evidence and found guilt was supported by the manifest weight of the evidence. Accordingly, the fourth assignment of error is overruled.

{¶ 10} In the first assignment of error, Appellant challenges the sufficiency of the evidence supporting the finding of guilt on Counts 1, 2, and 3, felony murder, felonious assault serious physical harm, and felonious assault deadly

weapon/dangerous ordnance. Specifically, he argues that there was insufficient evidence that he acted knowingly and, therefore, the convictions should be reversed. Pursuant to *Bissell II*, we overrule Appellant's first assignment of error.

{¶ 11} In his second assignment of error, Appellant challenges his conviction for felony murder. Appellant claims that the conviction is unsupported by the manifest weight of the evidence since the State's evidence does not establish that he acted knowingly.

{¶ 12} "Knowingly" is statutorily defined, as follows:

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.

R.C. 2901.22(B).

{¶ 13} In our review of the facts of this case in *Bissell I*, a majority of the panel found that Appellant was certainly aware of the surrounding circumstances, i.e., the number of police cars on the road, the direction of traffic, lane closures, and his speed relative to others on the road, but that it was improbable he knew his conduct would result in the death of a first responder. The Ohio Supreme Court disagreed. In discussing the sufficiency of the evidence, the Court in *Bissell II* framed the relevant question as whether

the State provided sufficient evidence that [Appellant] committed felonious assault under R.C. 2903.11(A)(1), meaning that [Appellant] was “aware” that his conduct in speeding through an accident scene on the highway would “probably” cause serious physical harm to first responder Tetrick.

Bissell II, 2026-Ohio-1965 at ¶ 19.

{¶ 14} In its analysis, the Court defined the plain meaning of “probably” as “insofar as seems reasonably true, factual, or to be expected: without much doubt.” *Id.*, quoting Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/probably> (accessed Apr. 20, 2026) <https://perma.cc/79VL-ULGT>]. After its review of the evidence, the *Bissell II* Court found, looking at the evidence in a light most favorable to the prosecution, the State presented sufficient evidence “to establish that [Appellant] was aware that his conduct would probably cause serious physical harm to a bystander or first responder like [Firefighter] Tetrick for purposes of [Appellant]’s felony-murder conviction.” *Bissell II* at ¶ 23.

{¶ 15} Appellant’s argument focuses on his belief that no reasonable factfinder could look at the evidence presented and determine that he acted knowingly, where “knowingly” is comprised of Appellant (1) seeing or being aware of Firefighter Tetrick before he hit him, (2) being aware of a substantial probability that Firefighter Tetrick would cross the highway in front of his vehicle, and (3) acting in a manner that resulted in an accident because of his insufficient concern for the risk. *Bissell II* forecloses a finding that the convictions were against the manifest weight of the evidence based on the element of knowledge as argued by Appellant. The record reflects that Appellant drove around multiple vehicles at a high rate of

speed relative to the conditions, struck Firefighter Tetrick, then left the scene. Since the record does not show the type of inconsistencies in the evidence, i.e., evidence that was “so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable,” this court is not permitted to sit as the thirteenth juror and weigh the evidence. *Reillo*, 2026-Ohio-2701, at ¶ 3. Accordingly, the second assignment of error is overruled.

{¶ 16} Judgment affirmed.

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

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant’s convictions having been affirmed, any bail pending is terminated. 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.

EMANUELLA D. GROVES, PRESIDING JUDGE

ANITA LASTER MAYS, J., and
DEENA R. CALABRESE, J., CONCUR