[Cite as *Cleveland v. Baffes*, 2026-Ohio-4279.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

CITY OF CLEVELAND, :

Plaintiff-Appellee, :

No. 115940

v. :

VASILY Y. BAFFES, :

Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 29, 2026

Criminal Appeal from the Cleveland Municipal Court
Case No. 2025-TRD-012319

Appearances:

Mark Griffin, Cleveland Director of Law, Aqueelah Jordan, Chief Prosecutor, and Isaiah Pinckney III, Assistant Prosecuting Attorney, *for appellee*.

Vasily Y. Baffes, *pro se*.

MICHELLE J. SHEEHAN, A.J.:

{¶ 1} Defendant-appellant Vasily Y. Baffes ("Baffes") appeals his minor misdemeanor conviction for assured clear distance in violation of R.C. 4511.21(A). Baffes alleges (1) the trial court utilized the wrong legal standard in finding him

guilty, (2) the evidence at trial was insufficient to support his conviction, (3) the conviction is against the manifest weight of the evidence, and (4) the trial court erred in proceeding with trial without resolving pending discovery issues.

{¶ 2} After a thorough review of the record and applicable law, we overrule each assignment of error and affirm his conviction.

I. Background Overview

A. Relevant Facts

{¶ 3} At approximately 4:00 p.m. on July 17, 2025, Michael Shelton ("Shelton") had just left work and was traveling eastbound on Interstate 90 when he merged into the far-right lane approaching State Route 176. He testified that traffic was moving slowly at the time and eventually came to a sudden stop, causing him to stop his vehicle. While at a standstill, Shelton's vehicle was struck from behind by another vehicle driven by Baffes. Shelton felt what he described as a "boom" when Baffes collided into the rear of his vehicle. Shelton stated that he did not see Baffes hit his vehicle because he was "paying attention to what was happening in front of [him.]"

{¶ 4} After the collision, Shelton and Baffes pulled onto the shoulder of the road. Shelton testified he called the State Highway Patrol. He also stated that he helped Baffes change one of Baffes's tires while "up against the berm." Shelton described the situation as "precarious," explaining that there was a barrier wall that barely left enough room for traffic to pass.

{¶ 5} State Highway Patrol Trooper David Pangburn ("Trooper Pangburn") arrived shortly after receiving a radio dispatch concerning a "two-vehicle non-injury crash on 90 East . . . right at the split for 176 and 90 West." Upon arrival, Trooper Pangburn observed two vehicles on the right side of the berm. He called for a safety patrol to block the right lane of traffic so he could conduct a crash investigation.

{¶ 6} Trooper Pangburn testified he "spoke with both victims, took photographs, completed a crash report, and moved both vehicles off the roadway." As a result of his investigation, he determined Baffes was at fault for the collision. He explained that he reached this conclusion after reviewing both parties' statements and assessing the damage on both vehicles.

B. Citation and Trial

{¶ 7} As a result of Trooper Pangburn's investigation, Baffes was issued a citation charging him with violating R.C. 4511.21(A), assured clear distance, a minor misdemeanor. Prior to trial, Baffes filed numerous motions, including motions to dismiss and demands for discovery. Baffes's motions to dismiss were denied.

{¶ 8} On October 15, 2025, the parties appeared in court for a pretrial. Baffes represented himself pro se. He advised the court that he had received partial discovery and was waiting for additional discovery from the prosecutor, including body-camera footage and interviews that had been conducted by other officers at the scene. Baffes informed the court that he had emailed the prosecutor and still had not received a response.

{¶ 9} The trial court explained to Baffes that "[t]hey probably didn't make a report. So I'm gonna tell you right now, the body-cam's probably lost into some cloud. If it's not assigned to some RMS number, it wouldn't have been uploaded." Finally, the court told Baffes:

> I don't know why we need all of these videos, all right. So let's schedule this for trial. And then should there be any discovery issues, should it be any discovery issues at trial then I will entertain some motion or a dismissal for a Brady violation or something like that, all right. And then we'll talk about that. When do we want to schedule this for trial?

{¶ 10} The court set a trial date for November 12, 2025.

{¶ 11} On October 27, 2025, Baffes filed additional motions with the trial court, including a motion to compel discovery requesting the City to turn over information concerning other crashes that had occurred near the scene, body-camera videos, and witness subpoenas and communications. The City did not respond to Baffes's motions.

{¶ 12} A bench trial was held on November 12, 2025. At no point prior to trial did either Baffes or the prosecution address Baffes's outstanding motion to compel. At trial, the City called Shelton and Trooper Pangburn to testify on behalf of the City. Baffes did not call any witnesses to testify on his behalf. At the conclusion of the trial, the court found Baffes guilty of assured clear distance, a minor misdemeanor, in violation of R.C. 4511.21(A).

C. Appeal

{¶ 13} Baffes appeals his conviction, presenting five assignments of error for our review:

> 1. The trial court applied the wrong legal standard by substituting generalized traffic-foreseeability reasoning for the element-specific ACDA [(assured clear distance ahead)] inquiry.
>
> 2. The trial court erred in denying [Baffes's] Crim.R. 29 motion because the City's evidence was legally insufficient at the close of its case.
>
> 3. [Baffes's] conviction was not supported by legally sufficient evidence on the full trial record.
>
> 4. [Baffes's] conviction was against the manifest weight of the evidence.
>
> 5. The trial court erred by allowing trial to proceed without meaningfully resolving [Baffes's] pretrial request for discovery materials relevant to causation, witness credibility, and the defense theory.

II. Law and Analysis

{¶ 14} For ease of discussion, we will address Baffes's assignments of error out of order.

A. Second and Third Assigned Errors for Review — Sufficiency

{¶ 15} In his second and third assigned errors for review, Baffes claims that the evidence presented at trial was insufficient to support his conviction for assured clear distance in violation of R.C. 4511.21(A). As these assignments of error rely on the same facts and law, we will address them together. Upon a complete review of the record, we find the evidence presented at trial was sufficient to support Baffes's conviction and overrule his second and third assignments of error.

1. Standard of Review

{¶ 16} "The test for sufficiency requires a determination of whether the prosecution met its burden of production at trial." *State v. Wilborn,* 2024-Ohio-

5003, ¶ 37 (8th Dist.), citing *State v. Cottingham*, 2020-Ohio-4220, ¶ 32 (8th Dist.). A sufficiency review "is not a factual determination, but a question of law." *State v. Jackson,* 2025-Ohio-109, ¶ 25 (8th Dist.), citing *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). In reviewing a challenge based on sufficiency, we "must consider the evidence in the light most favorable to the State and determine whether the evidence, if believed, would convince an average person that each element of the crime had been met." *State v. McClain,* 2026-Ohio-3934, ¶ 1.

{¶ 17} When reviewing the evidence, we must keep in mind that "[p]roof of guilt may be supported 'by circumstantial evidence, real evidence, and direct evidence, or any combination of all three, and all three have equal probative value.'" *Wilborn* at ¶ 38, quoting *State v. Radano,* 2017-Ohio-1034, ¶ 35 (8th Dist.). And although each type of evidence has its obvious differences, "those differences are irrelevant to the probative value of the evidence, and circumstantial evidence carries the same weight as direct evidence." *Id.,* citing *State v. Cassano,* 2012-Ohio-4047, ¶ 13 (8th Dist.). Our review of the evidence is not to determine "whether the state's evidence is to be believed, but whether, if believed, the evidence against a defendant would support a conviction." *Thompkins* at 390.

2. Applicable Law

{¶ 18} Baffes was convicted of assured clear distance in violation of R.C. 4511.21(A). "'Assured clear distance' is the distance between the car the driver is operating and a reasonably discernable object in the driver's path of travel."

Yarmoshik v. Parrino, 2007-Ohio-79, ¶ 29 (8th Dist.). R.C. 4511.21(A) provides that

> [n]o person shall operate a motor vehicle, trackless trolley, or streetcar at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle, trackless trolley, or streetcar in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

{¶ 19} Ohio courts have consistently held that a person violates R.C. 4511.21(A) if "'there is evidence that the driver collided with an object which 1) was ahead of him in his path of travel, 2) was stationary or moving in the same direction as the driver, 3) did not suddenly appear in the driver's path, and 4) was reasonably discernible.'" *Yarmoshik* at ¶ 29, quoting *Pond v. Leslein,* 72 Ohio St.3d 50, 52 (1995). A driver violates the statute if "uncontroverted evidence [is presented] establishing all of the elements necessary to constitute a statutory violation." *Pond* at 52.

3. Analysis

{¶ 20} Baffes claims that the evidence presented at trial was insufficient to support the final two elements set forth in *Pond.* He alleges that the evidence failed to demonstrate that Shelton's vehicle did not suddenly appear in his path or that Shelton's vehicle was reasonably discernible at the time.

{¶ 21} Whether a vehicle is reasonably discernible prior to a collision is generally a question of fact for the finder of fact to determine. *See Williams v. AVI Food Sys.,* 2020-Ohio-5001, ¶ 20 (8th Dist.), citing *Cleveland Elec. Illum. Co. v.*

Major Waste Disposal, 2016-Ohio-7442, ¶ 21 (11th Dist.), citing *Sharp v. Norfolk & W. Ry. Co.,* 36 Ohio St.3d 172 (1988), syllabus. In *Pond,* the Ohio Supreme Court made clear that "'[a]n automobile, van, or truck stopped on a highway in a driver's path during daylight hours is, in the absence of extraordinary weather conditions, a reasonably discernible object as a matter of law.'" *Id.* at 52, quoting *Smiddy v. The Wedding Party, Inc.,* 30 Ohio St.3d 35 (1987), paragraph two of the syllabus. But the Court also noted that, "in numerous cases in which a collision occurred at night or during extraordinary weather conditions that reduced visibility, we have held that a jury question existed as to whether the object that the driver hit was 'reasonably discernible.'" *Id.* at 52 (collecting cases).

{¶ 22} Here, Shelton stated that the collision occurred shortly after he finished working that day around 4:00 p.m. The accident occurred during daylight hours, and there was no evidence demonstrating the presence of extraordinary weather conditions. This testimony alone is sufficient to support a finding that Shelton's vehicle was reasonably discernible prior to the collision. *See State v. Jones,* 2020-Ohio-3367, ¶ 71 (8th Dist.) (noting that "[a] conviction may rest solely on the testimony of a single witness, if believed, and there is no requirement that a witness' testimony be corroborated to be believed"), citing *State v. Flores-Santiago,* 2020-Ohio-1274, ¶ 38 (8th Dist.). As such, Shelton's vehicle was "'a reasonably discernable object as a matter of law.'" *Pond*, 72 Ohio St.3d at 52, quoting *Smiddy* at paragraph two of the syllabus.

{¶ 23} With respect to whether Shelton's vehicle suddenly appeared in Baffes's path, Shelton testified that prior to coming to a stop, the traffic had been moving slowly. A finder of fact could reasonably conclude that Baffes was on notice that vehicles ahead may be slower moving or stopped due to the traffic conditions. To the extent that Baffes claims that the evidence merely supported a finding that Shelton's vehicle suddenly stopped and that the City failed to prove that Shelton's vehicle "did not suddenly become an obstruction," that it was "reasonably discernible in time to stop," or that Baffes's speed was inconsistent with maintaining an assured clear distance, we have previously recognized

> "[w]here conflicting evidence is presented as to any of the elements necessary to establish a violation of the statute, a jury question is created. 'Especially in cases involving the assured clear distance statute, which, by definition, require evaluation of the conduct of the driver in light of the facts surrounding the collision, the judgment of a jury is more likely to achieve a fair result than is a judge made rule of law.'"

Yarmoshik, 2007-Ohio-79, at ¶ 31 (8th Dist.), quoting *Ziegler v. Wendel Poultry Servs., Inc.,* 67 Ohio St.3d 10, 12-13 (1993), quoting *Blair v. Goff-Kirby Co.*, 49 Ohio St.2d 5 (1976).

{¶ 24} Viewing the evidence in the light most favorable to the City, we find that Baffes's conviction for assured clear distance is supported by sufficient evidence. Accordingly, Baffes's second and third assignments of error are overruled.

B. First Error for Review — Legal Standard

{¶ 25} In his first assigned error for review, Baffes alleges that the trial court failed to properly consider the correct elements necessary to support an assured-

clear-distance conviction in violation of R.C. 4511.21(A). After a thorough review of the record and relevant law, we find that the trial court utilized the correct legal standard.

1. Standard of Review

{¶ 26} Baffes notes that his first assignment of error is "not a sufficiency or manifest-weight challenge." Rather, he alleges that when the trial court rendered its verdict, the trial court failed to address the proper elements necessary to support a conviction for an assured-clear-distance offense. He did not object to the court's alleged errors below and raises this argument for the first time on appeal. As such, he has forfeited all but plain error. *State v. Wilson,* 2026-Ohio-2814, ¶ 16 (8th Dist.), citing *State v. Nieves,* 2022-Ohio-3040, ¶ 28 (8th Dist.).

{¶ 27} Crim.R. 52(B) provides that plain errors are any "errors or defects affecting substantial rights [and] may be noticed although they were not brought to the attention of the court." "'Notice of plain error under Crim.R. 52(B) is to be taken with the utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice.'" *State v. Fluker,* 2026-Ohio-1278, ¶ 69 (8th Dist.), quoting *State v. Long*, 53 Ohio St.2d 91 (1978), paragraph three of the syllabus. "Thus, the party raising plain error must demonstrate 'that there was an error, that the error was plain or obvious, that but for the error the outcome of the proceeding would have been otherwise, and that reversal must be necessary to correct a manifest miscarriage of justice.'" *Id.,* quoting *State v. Buttery,* 2020-Ohio-2998, ¶ 7, citing *State v. Quarterman,* 2014-Ohio-4034, ¶ 16.

2. Analysis

{¶ 28} When rendering its verdict, the trial court stated:

> This is I-90 right after the West 25th exit. It's where everyone tries to get onto the Jennings freeway. It's narrow. People are always confused as to what lane they're supposed to be in.
>
> However, it is a knowingness here in the city of Cleveland that that interchange right there is one that people have to be cautious about. And if you were going 65, 70 — I'm not saying anybody was doing that — but 60 miles — if you're going the speed limit, once you get past the, uh, 40th exit and come up near the 25th exit, I mean, yeah. It gets a little bottlenecky there. But that's called traffic. That's called traffic, all right.
>
> It happens also at, you know, the Hilliard exit in Rocky River at 4:30 or 4:45 in the afternoon. It happens at the MLK exit off route 2 in the afternoon and in the morning cause it's traffic. And when there's traffic, people have to be more cognizant and aware, reasonably aware of how they need to operate the vehicle so as not to run into somebody should there be as was described a sudden slowdown but not an unreasonable slowdown in traffic.

{¶ 29} Baffes claims that the court's reasoning fails to consider the elements set forth in *Pond, supra,* and, in turn, created its own legal framework with respect to an assured-clear-distance analysis. We disagree.

{¶ 30} In reaching its conclusion, the trial court explained that when operating a vehicle, drivers are expected to be aware of traffic patterns, including a sudden slowdown in traffic. As discussed above, with respect to Baffes's sufficiency arguments, this analysis ties directly into the final two elements of the *Pond* framework, i.e., whether Shelton's vehicle suddenly appeared in Baffes's path, and whether Shelton's vehicle was reasonably discernible at the time of the collision.

{¶ 31} Contrary to Baffes's claim, the trial court's explanation did not ignore or create a new legal standard. Rather, the court's explanation tied directly into the elements set forth in *Pond*. As such, Baffes has failed to demonstrate that the trial court committed plain error since the court did not operate under an incorrect legal standard.

{¶ 32} Accordingly, Baffes's first assignment of error is overruled.

C. Fourth Assigned Error for Review — Manifest Weight

{¶ 33} In his fourth assigned error for review, Baffes alleges that his conviction for assured clear distance is against the manifest weight of the evidence. We disagree.

1. Standard of Review

{¶ 34} In contrast to a sufficiency challenge, which challenges the adequacy of the evidence presented, a manifest-weight challenge attacks the evidence's persuasiveness. *State v. Reillo,* 2026-Ohio-2701, ¶ 24, citing *State v. Jordan,* 2023-Ohio-3800, ¶ 15. "[W]hile a review of the sufficiency of the evidence asks whether the State met its burden of production, a manifest-weight-of-the-evidence challenge looks to whether the State met its burden of persuasion." *Id.,* citing *State v. Messenger,* 2022-Ohio-4562, ¶ 26.

{¶ 35} Under a manifest-weight review, we "must weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the finder of fact clearly lost its way and created such a manifest miscarriage of justice that the judgment must be

reversed and a new trial ordered." *In re Z.C.,* 2023-Ohio-4703, ¶ 14, citing *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 21. As such, a manifest weight of the evidence challenge will be sustained and a new trial ordered "only in the exceptional case in which the evidence weighs heavily against the conviction." (Cleaned up.) *Reillo* at ¶ 27.

2. Analysis

{¶ 36} As discussed above, the evidence was sufficient to support Baffes's conviction for assured clear distance. However, Baffes claims that the evidence demonstrates that this was not a routine rear-end collision but was instead an "evasive-response event" or "developing traffic event" caused not merely by a sudden stop in traffic, but also roadway hazards and additional "unresolved mechanics." He alleges the trial court erred in failing to give greater weight to such evidence. In short, Baffes does not direct us to any evidence contradicting the trial court's findings but merely disagrees with how the trial court weighed and interpreted the evidence presented.

{¶ 37} For these reasons, we find that Baffes's conviction for assured clear distance is not one of the exceptional cases where the conviction is against the manifest weight of the evidence. Accordingly, Baffes's fourth assignment of error is overruled.

D. Fifth Assigned Error for Review — Discovery Violation

{¶ 38} In his fifth and final assigned error for review, Baffes claims that the trial court erred when it proceeded to trial without meaningfully resolving his pretrial request for discovery materials.

{¶ 39} We find that the trial court erred when it failed to rule on Baffes's motion to compel prior to trial. However, Baffes did not object to the trial court proceeding to trial without first addressing his motion. As such, he has waived all but plain error. And since the record fails to demonstrate that but for the court's failure the outcome would have been different, we overrule Baffes's fifth assignment of error.

1. Standard of Review

{¶ 40} "An appellate court reviews the trial court's ruling on discovery motions for abuse of discretion." *Cleveland v. Johnson,* 2026-Ohio-739, ¶ 17 (8th Dist.), citing *Broadview Hts. v. Vukotic,* 2025-Ohio-5855, ¶ 17 (8th Dist.). "The term 'abuse of discretion' means a ruling that is unreasonable, arbitrary, or unconscionable." *State v. McAlpin,* 2026-Ohio-148, ¶ 14. However, "[c]ourts do not have discretion to erroneously apply the law." *Shiftmed, L.L.C. v. Westchester Parkway Consulting, L.L.C.,* 2025-Ohio-1554, ¶ 18 (8th Dist.), citing *Johnson v. Abdullah,* 2021-Ohio-3304, ¶ 39. We are reminded that "when applying the abuse-of-discretion standard 'we should not substitute our judgment for that of the trial court.'" *T.C. v. R.B.C.,* 2025-Ohio-1544, ¶ 10 (8th Dist.), quoting *Mills v. Mills,* 2025-Ohio-452, ¶ 28 (8th Dist.).

2. Applicable Law

{¶ 41} In a criminal case, discovery is governed by Crim.R. 16 which requires, in relevant part, that the City

> provide copies or photographs, or permit counsel for the defendant to copy or photograph, the following items related to the particular case indictment, information, or complaint, and which are material to the preparation of a defense, or are intended for use by the prosecuting attorney as evidence at the trial, or were obtained from or belong to the defendant, within the possession of, or reasonably available to the state, subject to the provisions of this rule[.]

Crim.R. 16(B). The purpose of this rule is "to provide the parties in a criminal case with the information necessary for a full and fair adjudication of the facts, to protect the integrity of the justice system, the rights of defendants, and the well-being of witnesses, victims, and society at large." Crim.R. 16(A). In traffic cases, Traf.R. 11(D) permits a defendant to request discovery in accordance with Crim.R. 16.

{¶ 42} A party may file a motion to compel compliance with this rule "no later than seven days prior to trial, or three days after the opposing party provides discovery, whichever is later." Crim.R. 16(M). If it is brought to the court's attention that a party has failed to comply with discovery, Crim.R. 16(L)(1) provides: "[T]he court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may make such other order as it deems just under the circumstances."

3. Analysis

{¶ 43} Prior to trial, the court never addressed or ruled on Baffes's motion to compel that had been filed two weeks before trial. Traf.R. 11(E) specifically requires all pretrial motions to be ruled on prior to trial. As such, we recognize that the trial court erred when it proceeded to trial without first addressing and ruling on Baffes's pretrial motion to compel.

{¶ 44} However, prior to trial, Baffes did not object to the court proceeding to trial without first addressing his motion to compel nor did he bring to the court's attention that discovery had yet to be resolved. As such, he has forfeited all but plain error with respect to the trial court's failure to rule on his motion to compel. *See Wilson,* 2026-Ohio-2814, at ¶ 16 (8th Dist.), citing *Nieves,* 2022-Ohio-3040, at ¶ 28 (8th Dist.). Baffes therefore bears the burden to demonstrate that but for the court's error, the outcome of the proceeding would have been different. *State v. Jones,* 2020-Ohio-3051, ¶ 17.

{¶ 45} Baffes directs us to our decision in *Johnson,* 2026-Ohio-739 (8th Dist.), in support of his claim that his conviction should be vacated due to this discovery violation. But *Johnson* is distinguishable from the case at bar.

{¶ 46} In *Johnson,* the defendant filed several motions to compel discovery prior to trial. When the trial date arrived, the prosecution had still not provided discovery to the defendant. The trial court "attributed the City's failure to provide discovery to Johnson's decision not to provide an email address. The trial court then required Johnson to proceed to trial without discovery over Johnson's objection."

Id. at ¶ 19. We reversed, finding that the defendant's failure to provide an email to the prosecution did "not relieve the City of its obligation to provide discovery to Johnson. The City has an affirmative duty to provide a defendant with discovery after written demand." *Id.* at ¶ 22.

{¶ 47} In *Johnson*, the record was clear that the City had failed to provide discovery to the defendant and proceeded to trial over the defendant's objection. We do not have the benefit of a similar record here. Rather, the record in this case is unclear whether discovery was outstanding when trial began. And Baffes did not bring to the court's attention that discovery was outstanding or that the City had not complied with the requests set forth in his motion to compel. Instead, Baffes chose to proceed to trial without raising an objection. As such, Baffes's reliance on *Johnson* is misplaced.

{¶ 48} It has been well established that "appellate review is strictly limited to the record." *State v. Yancy,* 2026-Ohio-1549, ¶ 15 (8th Dist.). Thus, "[e]vidence outside the record cannot be used in a direct appeal." *In re A.T.,* 2021-Ohio-2934, ¶ 34 (8th Dist.), citing *State v. Hartman,* 2001-Ohio-1580; *State v. Ishmail,* 54 Ohio St.2d 402 (1978), paragraph one of the syllabus ("A reviewing court cannot add matter to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter.").

{¶ 49} Due to the limited record before us, we are unable to determine whether discovery was outstanding at the time of trial, what the alleged outstanding discovery may have contained, or whether the alleged outstanding discovery would

have changed the outcome of the proceedings. Baffes alleges that the body-camera videos and interviews he requested could have provided impeachment evidence that would have been relevant at trial. But without the alleged documents or videos before us, Baffes's claims are merely speculative.

{¶ 50} For these reasons, we are unable to conclude that the trial court's error rises to the level of plain error and that the outcome of the trial would have been different had the court ruled on Baffes's motion to compel prior to trial. Accordingly, Baffes's fifth assignment of error is overruled.

III. Conclusion

{¶ 51} Following a thorough review of the record and applicable law, we overrule Baffes's five assigned errors for review.

{¶ 52} 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 municipal court to carry this judgment into execution. The defendant's conviction 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.

_____
MICHELLE J. SHEEHAN, ADMINISTRATIVE JUDGE

MICHAEL JOHN RYAN, J., and
DEENA R. CALABRESE, J., CONCUR