

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
ERIE COUNTY

State of Ohio

Court of Appeals No. E-13-004

Appellee

Trial Court No. TRD 1205258

v.

Muralidhara Jampani

DECISION AND JUDGMENT

Appellant

Decided: November 15, 2013

* * * * *

Kevin J. Baxter, Erie County Prosecuting Attorney, Mary Ann Barylski and Ashley L. Thomas, Assistant Prosecuting Attorneys, for appellee.

Muralidhara Jampani, pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Erie County Municipal Court, which following a bench trial and post-trial briefing by appellant, convicted appellant of one count of speeding, in violation of R.C. 5537.203. Appellant was ordered to pay a

\$20 fine and court costs. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Muralidhara Jampani, sets forth the following five assignments of error:

1. [SIC] TRIAL COURT ERRED IN ADMITTING THE LASER DEVICE READING INTO EVIDENCE WHEN THE DEVICE WAS NOT CERTIFIED TO BE ACCURATE TO A LEGAL DEGREE OF CERTIANTY [SIC] AND THE OFFICER HAS ADMITTED THAT HE DID NOT PERFORM THE REQUIRED CONFIDENCE CHECKS ON THE DEVICE.

2. [SIC] TRIAL COURT ERRED TO THE PREJUDICE OF THE APPELLANT BY IMPROPERLY ADMITTING THE OFFICER'S CERTIFICATE INTO EVIDENCE BY IGNORING THE FACT THAT THE OFFICER WAS NOT CERTIFIED AND QUALIFIED TO OPERATE THE ULTRALYTE LASER DEVICE.

3. [SIC] TRIAL COURT ERRED IN TAKING JUDICIAL NOTICE OF THE ACCURACY AND SCIENTIFIC RELIABILITY OF THE LTI ULTRALYTE LASER SPEED MEASURING DEVICE.

4. [SIC] STATE FAILED TO LAY THE FOUNDATION TO PROVE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

5. [SIC] JUDGMENT WAS AGAINST THE MANIFEST
WEIGHT OF THE EVIDENCE.

{¶ 3} The following undisputed facts are relevant to this appeal. On August 31, 2012, appellant was traveling on the Ohio Turnpike through Erie County, Ohio. Trooper Michael Ziehr of the Ohio State Highway Patrol was on duty, in uniform, and in a marked patrol vehicle while observing traffic on the Ohio Turnpike from a stationary position.

{¶ 4} At approximately 3:15 p.m., fifteen minutes after performing required calibration accuracy checks on his speed laser device at the beginning of his shift, the trooper directed the speed laser at appellant's vehicle in a 70 m.p.h. speed zone. It emitted the audible tone verifying a proper connection with the subject vehicle and then it recorded appellant traveling at 81 m.p.h., 11 m.p.h. in excess of the lawful speed limit.

{¶ 5} The trooper, who had received both classroom instruction and four hours of hands-on training with the laser device while being observed by a sergeant with the Ohio State Highway Patrol at the Ohio State Highway Patrol Academy in Columbus, performed the requisite calibration check on the device at the beginning of his shift, a short time prior to encountering appellant and issuing the disputed speeding citation to him.

{¶ 6} The record shows that the trooper testified in great detail regarding the testing process that must be performed in order to verify the calibration accuracy of the laser device at the beginning and end of each shift. The trooper similarly testified in

detail regarding performing the test and verifying the accuracy and reliability of the laser device at the onset of his shift on August 31, 2012.

{¶ 7} The record reflects that appellant immediately and steadfastly disputed the speeding citation from the time he was stopped by the trooper. Notably, the record shows that during the traffic stop itself, appellant demanded to observe the laser speed measuring device in the trooper's vehicle and also demanded that the trooper explain to him how the laser device operates. The record shows that the trooper fully accommodated appellant. The trooper showed the laser device in his vehicle to appellant and explained in detail how the device operates in order to accurately record the rate of speed of a passing vehicle. Despite the trooper's explanatory efforts to appellant during the traffic stop, appellant continued to insist to the trooper that he was not speeding and the machine had to be wrong or defective in some way.

{¶ 8} Appellant represented himself in a bench trial in this matter. The record shows that appellant ably engaged in extensive and assertive cross-examination of the trooper. The record further reflects that appellant repeatedly made unsupported legal conclusions contrary to the record of evidence during trial such as, "The officer is not competent because he does not recall the facts of the case."

{¶ 9} Conversely, the record reflects that the officer exhibited an in depth recollection of the incident. The officer testified in detail regarding the specifics of his education and training for operation of the laser speed measuring device, testified in detail regarding the operational specifics and parameters of the device, testified in detail

regarding performing the requisite accuracy checks on the device on the day of the incident, and likewise testified in great detail regarding utilizing the device to monitor appellant's speed and receiving clear audio results followed by a clear reading establishing the speeding violation by appellant. Our careful scrutiny and examination of the record of proceedings in this matter reveals that appellant perceives that some sort of procedural or technical defect exists in this case that can operate so as to invalidate his speeding conviction. The record does not bear this out.

{¶ 10} The record shows that following the trial itself, appellant was furnished an additional opportunity to submit legal briefs delineating his positions to the trial court prior to a decision being rendered. The trial court was not persuaded. Appellant was found guilty of the single count of speeding. Appellant received a \$20 fine and court costs. This appeal ensued.

{¶ 11} Appellant's first and second assignments of error are rooted in similar assumptions and will be addressed simultaneously. In the first two assignments of error, appellant contends that the trial court erred in admitting the laser device results into evidence and erred in admitting the officer's laser device training certification into evidence.

{¶ 12} It is well-established that trial courts exercise broad discretion in the admission or exclusion of evidence. An appellate court will not disturb evidentiary decisions of the trial court absent a showing of an abuse of discretion. *State v. Riddle*, 6th Dist. Lucas No. OT-10-040, 2011-Ohio-1547, ¶ 7. This court has clearly held that an

officer's direct testimony regarding his qualifications and experience is sufficient to establish qualification to utilize the speed measuring device and has held that a person may properly be convicted of speed based upon evidence that the device is in good working condition, is scientifically reliable, and that the officer utilizing the device is qualified to do so. *Id.* at ¶ 14.

{¶ 13} Appellant contends that the reversal by this court in *Riddle* supports his position that the trooper was not qualified to operate the laser device and thus the results should not have been admitted into evidence. We find that the determinative facts of *Riddle* are materially distinguishable from the instant case. Therefore, we do not concur.

{¶ 14} In *Riddle*, the trooper was unable to answer basic questions regarding the speed measuring device that he had used. In *Riddle*, the entirety of the trooper's testimony was generic and vague. This court found, "When asked about the Python II, the trooper could not answer questions regarding the parameters of the device." Accordingly, this court held in pertinent part, "In this case we find Trooper Jeffries' generalized and vague testimony that he is qualified to be insufficient proof of his qualifications." *Id.* at ¶ 16.

{¶ 15} In stark contrast to *Riddle*, the record in this case clearly reflects that the trooper furnished detailed and specific testimony regarding his knowledge, education, training, and usage of the device. Likewise, the trooper in this case specifically testified in detail regarding the parameters of the device and even testified regarding showing the device and explaining how the device functioned to appellant, at appellant's request, at

the time of the traffic stop. The trooper testified at length, “When you check you use the laser, you’ll get an audible sound, that sound changes as you come across the sign, which allows you to realize if you are hitting the sign or not * * * And if that turns out right as 50 then the device is calibrated correctly.” The trooper went on to testify that he methodically performed the test verifying correct calibration of the device shortly before encountering appellant on August 31, 2012.

{¶ 16} Regarding utilizing the laser device shortly thereafter to monitor and record appellant’s rate of speed, the trooper again testified in great detail regarding how the device operates, and his operation of it on the day in question in order to accurately obtain appellant’s rate of speed. The trooper precisely testified as to looking through the scope of the device, placing the red dot in the scope directly onto appellant’s passing vehicle, pulling the device trigger, hearing the clear and constant audible tone from the device to verify connection with appellant’s vehicle, and then obtaining a reading of appellant traveling at 81 m.p.h. in a 70 m.p.h. zone, while appellant was traveling in the left lane of the turnpike at mile post 126 and the trooper was observing traffic from a stationary position without any interference with the reading from other traffic. Accordingly, as the trooper next testified, “I immediately pulled out of my stationary position and pulled in behind the subject’s vehicle to read the license plate and begin a traffic stop.”

{¶ 17} We have carefully reviewed and considered appellant’s arguments in comparison to the record of evidence in this matter. We are not persuaded that the

trooper was not qualified or that the laser results were somehow compromised. The testimony of the trooper amply established the reliability, accuracy, and proper working condition of the laser device. The testimony of the trooper clearly established his qualifications to operate the laser device and his proper operation of the laser device on August 31, 2012, in the course of obtaining a reading on appellant's speed prior to issuing the resultant speeding citation.

{¶ 18} By contrast, the record shows that appellant's positions are rooted in conjecture. Notably, appellant's reliance on *Riddle* in support of invalidating his speeding conviction is misplaced. In contrast to the vague and generic trooper testimony found in *Riddle*, the record in this case contains clear, precise, and detailed trooper testimony clearly demonstrating the qualifications of the trooper to operate the laser device, the propriety of the trooper's accuracy check of the laser device just prior to encountering appellant, and the propriety of the trooper's operation of the device in obtaining the reading on appellant's vehicle which established a speeding violation. Wherefore, we find appellant's first and second assignments of error not well-taken.

{¶ 19} In appellant's third assignment of error, he similarly contends that the trial court erred in taking judicial notice of the accuracy and scientific reliability of the laser speed measuring device. We do not concur.

{¶ 20} Pursuant to Evid.R. 201(B), a judicially noticed fact must either be generally known within the jurisdiction of the trial court or be capable of accurate determination by sources who cannot reasonably be questioned. The record in this matter

clearly reflects that the accuracy and reliability of the laser speed measuring device used in this matter is known by the trial court and has previously been the subject of judicial notice by the same trial court.

{¶ 21} The trial transcript clearly shows that all of this information was specifically placed into the record during trial prior to the disputed judicial notice determination. As such, the record demonstrates that the trial court complied with Evid.R. 201. Wherefore, we find appellant's third assignment of error not well-taken.

{¶ 22} In appellant's related fourth and fifth assignments of error, he contends that the trial court failed to establish guilt beyond a reasonable doubt and appellant's conviction was against the manifest weight of the evidence. Accordingly, the relevant inquiry becomes whether, after viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found the elements of the crime proven beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1992), paragraph two of the syllabus. In conjunction with this, we must also determine whether, in weighing the evidence and considering the credibility of witnesses and resolving evidentiary conflicts, the trial court lost its way such that a manifest miscarriage of justice occurred. *State v. Thompkins*, 78 Ohio St.3d 380, 678 N.E.2d 541 (1997).

{¶ 23} As set forth in detail above, we find that the record clearly establishes by the thorough and precise testimony of the trooper, as collaborated by the properly admitted results of the laser speed measuring device, that appellant committed a speeding violation on the Ohio Turnpike on August 31, 2012. The record reveals nothing that

could conceivably be construed as a manifest miscarriage of justice. Wherefore, we find appellant's fourth and fifth assignments of error not well-taken.

{¶ 24} We find that substantial justice has been done in this matter. The judgment of the Erie County Municipal Court is hereby affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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