

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

State of Ohio

Court of Appeals No. L-11-1245

Appellee

Trial Court No. CR0201001928

v.

Jeffrey Ronald Fastnacht

**DECISION AND JUDGMENT**

Appellant

Decided: July 26, 2013

\* \* \* \* \*

Julia R. Bates, Lucas County Prosecuting Attorney, and  
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Mollie B. Hojnicky, for appellant.

\* \* \* \* \*

**OSOWIK, J.**

{¶1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, which found appellant guilty of one count of felonious assault, in violation of R.C. 2903.11(A)(2), a felony of the first degree, and one count of failure to comply with signal or order of a police officer, in violation of R.C. 2921.331(B) and (C)(5)(a)(ii), a felony of

the third degree. Following a bench trial, appellant was convicted and sentenced to a total term of incarceration of four years. The court ordered the time to be served in the medical ward or unit of the selected prison facility. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶2} The following undisputed facts are relevant to the issues raised on appeal. On May 1, 2010, appellant, Jeffrey Ronald Fastnacht, entered the Birkenkamp Funeral Home in West Toledo as a funeral service was concluding. The funeral service guests were in the process of going to another portion of the facility to attend a luncheon in honor of the deceased. Appellant knew the decedent as she had been his former babysitter when he was a child. Despite having taken his prescribed mental health medications that morning, appellant began disruptively yelling while running erratically through the facility. Given this deeply disturbing conduct, appellant was approached by funeral home staff and an off-duty Toledo police officer related to the deceased who was in attendance at the service. Unfortunately, the effort to diffuse the matter quickly was not successful.

{¶3} After being escorted out of the building by the officer, appellant got into his vehicle and drove towards the officer and other patrons standing in the funeral home parking lot. Multiple people were forced to scramble for cover as appellant drove erratically towards them, ducking behind cars, telephone poles, and a wishing well, to avoid being struck by appellant. Additional police were called to the scene. Upon their

arrival, appellant led the responding officers on a 15-minute high speed chase throughout West Toledo.

{¶4} On May 26, 2010, appellant, was indicted on one count of felonious assault, in violation of R.C. 2903.11(A)(2), a felony of the first degree, and one count of failure to comply with signal or order of a police officer, in violation of R.C. 2921.331(B) and (C)(5)(a)(ii), a felony of the third degree.

{¶5} On June 9, 2010, appellant entered a plea of not guilty by reason of insanity. Given appellant's claim, appellant was referred to the court diagnostic and treatment center for an evaluation of his mental health. Ultimately, appellant underwent three separate mental health assessments. On March 31, 2011, appellant was determined to be legally competent to face trial.

{¶6} On May 27, 2011, given the adverse determination on his assertion of legal insanity, the matter proceeded to trial. Eyewitness testimony regarding appellant's extremely hazardous behavior, both inside the funeral home and while driving his motor vehicle, was presented by multiple eyewitnesses on behalf of the state. In addition, the three psychiatric experts who evaluated appellant also presented testimony.

{¶7} During trial, the three experts testified regarding their conclusions pertaining to appellant's criminal responsibility. All consistently noted that during the evaluations, appellant was oriented to time and place and understood the purpose of the evaluations. Additionally, all agreed that appellant suffered from bipolar disorder. Two of the experts,

Dr. Thomas Sherman and Dr. Gregory Forgac, testified that appellant claimed to have experienced past closed head injuries. However, the claimed injuries could not be independently verified.

{¶8} Significantly, Sherman, the first expert to examine appellant, determined that appellant's mental illness did not compromise his ability to appreciate the wrongfulness of his actions at the time of the offenses. In conjunction with this finding, Forgac similarly concluded that appellant was competent to stand trial and also noted during the course of his evaluation that appellant presented symptoms in an exaggerated, malingering type of fashion. Dr. Charlene Cassel, a clinical psychologist, provided the final assessment of appellant. She disagreed. Cassel found that appellant failed to appreciate the wrongfulness of his actions. The trial court carefully considered the three assessments and found appellant to be legally competent.

{¶9} On August 17, 2011, based upon the substantial eyewitness testimony from funeral home staff, the off-duty officer, other guests, and the officer who later pursued appellant during the high speed chase, as collaborated by the bulk of the expert testimony, the trial court found appellant guilty of both counts.

{¶10} On September 14, 2011, appellant was sentenced to a total term of incarceration of four years. Notably, the trial court further ordered the sentence to be served in the prison medical ward. On October 6, 2011, this appeal ensued.

{¶11} On appeal, appellant sets forth the following three assignments of error:

1. The evidence at appellant's trial was insufficient to support the convictions.

2. Appellant's convictions are against the manifest weight of the evidence.

3. The trial court's imposition of sentence constituted an abuse of discretion.

{¶12} In the related first and second assignments of error, appellant asserts that his convictions were not supported by sufficient evidence and were against the manifest weight of the evidence. In support of these assertions, appellant maintains that as a result of his mental illness, his actions were not knowingly performed. After careful review of the record, we do not concur.

{¶13} The term "sufficiency" of the evidence presents a question of law as to whether the evidence is legally adequate to support a jury verdict as to all elements of the crime. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 678 N.E.2d 541 (1997). The relevant inquiry in such cases is "whether, after viewing the evidence in a 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. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

{¶14} "In contrast, a manifest weight challenge questions whether the state has met its burden of persuasion." *State v. Davis*, 6th Dist. Wood No. WD-10-077, 2012-

Ohio-1394, ¶ 17, citing *Thompkins*, at 387. In making this determination, the court of appeals sits 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.” *Thompkins*, at 386.

{¶15} Significantly, appellant’s affirmative defense of insanity cannot be considered when evaluating the sufficiency of the evidence. The Supreme Court has held, “the due process ‘sufficient evidence’ guarantee does not implicate affirmative defenses, because proof supportive of an affirmative defense cannot detract from proof beyond a reasonable doubt that the accused had committed the requisite elements of the crime.” *State v. Hancock*, 108 Ohio St.3d 57, 2006-Ohio-160, 840 N.E.2d 1032 ¶ 37, quoting *Caldwell v. Russell*, 181 F.3d 731, 740 (6th Cir.1999) *abrogated on other grounds by* 28 U.S.C. 2261.

{¶16} After reviewing the record, we find sufficient evidence to establish that appellant’s actions were performed knowingly. When individuals act in a voluntary manner, it is presumed that they intend the natural results of their behavior. *State v. Johnson*, 56 Ohio St.2d 35, 39, 381 N.E.2d 637 (1978). A reasonable individual would understand that driving a motor vehicle directly towards someone standing nearby could result in serious harm or death. Consistent with a keen awareness of the wrongfulness of

his actions, the record entails a wealth of evidence showing that appellant travelled at a high rate of speed, ran multiple red lights at busy intersections, and failed to comply with cruiser lights and sirens for approximately 15 minutes in an effort to evade the pursuing police officers. Such evidence clearly supports the notion that appellant acted knowingly. The record encompasses sufficient evidence to support the convictions.

{¶17} The record likewise shows that the convictions were not against the manifest weight of evidence. Appellant underwent multiple mental health assessments prior to trial. The results of the three evaluations, while not entirely uniform, clearly weighed in favor of finding appellant to be legally competent. Significantly, so long as a trial court judge does not arbitrarily ignore expert testimony, the judge is not required to accept the expert opinions. *State v. White*, 118 Ohio St.3d 12, 2008-Ohio-1623, 885 N.E.2d 905, ¶ 71. Accordingly, the trial court acted well within its discretion in weighing the three assessments reaching different conclusions and in ultimately determining appellant to be legally competent.

{¶18} The record reflects that the persuasive testimony of Sherman convincingly established that appellant appreciated the wrongfulness of his actions during the events of May 1, 2010. Forgac likewise found appellant legally competent. Both Sherman and Forgac noted that appellant's reports of closed head injuries could not be independently verified. Additionally, Forgac observed that appellant exaggerated symptoms in a self-serving manner during the course of the evaluation. On the contrary, Cassel concluded

that appellant failed to appreciate the wrongfulness of his conduct. The record reflects the trial court carefully considered the entire spectrum of expert testimony and concluded appellant was legally competent. We concur, and find appellant's first and second assignments of error not well-taken.

{¶19} In the third assignment of error, appellant asserts that the trial court abused its discretion in appellant's sentence. In support of this claim, appellant summarily concludes that his mental and physical health issues should allow him to be placed on community control rather than being incarcerated in a medical ward. We do not agree.

{¶20} It is well-established that we cannot disregard a trial court's felony sentence unless we find an abuse of discretion. As the Supreme Court declared in *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, appellate courts reviewing felony sentences apply a two-step approach. First, they must determine whether the sentence is clearly and convincingly contrary to law. If this first prong is satisfied, the disputed decision is then reviewed pursuant to the abuse of discretion standard. *Kalish*, at ¶ 4.

{¶21} In conjunction with the above, as established by *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, the trial court is vested with full discretion to impose any sentence within the statutory range without a requirement that it issue specific reasons or findings prior to imposition of the sentence.

{¶22} We have carefully reviewed the record. We find that the trial court properly acted within the applicable statutory parameters when imposing appellant's sentence. In

addition, the trial court ordered that appellant's incarceration be served in the medical unit. Nothing in the record reflects that the trial court acted in an unreasonable, arbitrary or unconscionable manner. We find appellant's third assignment of error not well-taken.

{¶23} Wherefore, we find that substantial justice has been done in this matter. The judgment of the Lucas County Court of Common Pleas 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.

Arlene Singer, P.J.

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JUDGE

Thomas J. Osowik, J.

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JUDGE

James D. Jensen, J.  
CONCUR.

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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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