

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-160354
		C-160355
Plaintiff-Appellee,	:	TRIAL NOS. 16CRB-3517A
		16CRB-3517B
vs.	:	
ZAMMRON POWER,	:	
		<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In the case numbered C-160354, defendant-appellant Zammron Power appeals the judgment of the Hamilton County Municipal Court convicting him of resisting arrest under R.C. 2921.33(A). Although Power has filed a notice of appeal of a drug-possession conviction in the case numbered C-160355, he has not asserted any error with respect to that conviction. Therefore, we dismiss the appeal in the case numbered C-160355.

In a single assignment of error, Power challenges the weight and sufficiency of the evidence supporting his conviction, following a bench trial, for resisting arrest. He contends that the state failed to show that the police officer had an intent to arrest him and that he understood that he was under arrest. *See State v. Barker*, 53

Ohio St.2d 135, 139, 372 N.E.2d 1324 (1978); *State v. Darrah*, 64 Ohio St.2d 22, 26, 412 N.E.2d 1328 (1980); *State v. Jones*, 1st Dist. Hamilton No. C-130069, 2014-Ohio-1201, ¶ 11.

At trial, the state presented evidence that an officer stopped Power's van for a traffic violation and that Power got out of his van. The officer ordered Power to get back in the van, but he refused. Power fidgeted around his pocket and underneath his coat with his right hand, prompting the officer to draw his taser. As the officer attempted to explain the reason for the stop, Power continually interrupted him.

The officer asked for Power's license and returned his taser to his holster. Power began backing away and looking behind himself, causing the officer to believe that he would run away. The officer grabbed Power's coat and gave him orders, but Power did not comply. Then Power, with both hands, grabbed the officer's upper arms "and clinched down." The officer repeatedly told Power to let go, but Power refused and grabbed the officer more tightly. The struggle caused the pair to move from the driver's side to the front of Power's van.

The officer was eventually able to remove Power's grip by moving his own arms in a rotating motion, and by pushing Power away. Then the officer drew his taser and issued multiple commands to Power to get on the ground. Power initially continued to back away before complying. At that point, Power was placed in handcuffs. In his testimony, Power acknowledged that the officer had to scream two or three times to get on the ground before he complied.

Our review of the record shows that the court could reasonably have found all of the elements of resisting arrest under R.C. 2921.33(A) proven beyond a reasonable doubt. *See State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983). And this was not the rare case in which the trier of fact lost its way and created such a

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manifest miscarriage of justice that Power's conviction must be reversed. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Accordingly, we overrule the assignment of error and affirm the judgment of the trial court in the case numbered C-160354.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., MOCK and STAUTBERG, JJ.

To the clerk:

Enter upon the journal of the court on November 18, 2016

per order of the court _____.
Presiding Judge