

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

STATE OF OHIO,	:	APPEAL NOS. C-090767
	:	C-090768
Plaintiff-Appellee,	:	C-090773
	:	C-090774
vs.	:	
	:	TRIAL NOS. 09TRD-44110A
JOHNNY WHITE,	:	09CRB-28905A
	:	09TRD-44110B
Defendant-Appellant.	:	09TRD-44110C
	:	
	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Johnny White was cited for driving under suspension,² reckless driving,³ and failure to stop after an accident.⁴ Following a bench trial, the municipal court found White guilty on each charge and sentenced him accordingly. He now appeals his convictions, arguing that they were against the weight and sufficiency of the evidence.

On a night in August 2009, Officer Tyrone Hall was on patrol when he checked the license-plate number of a Ford Explorer. The license-plate check revealed that the vehicle had three misdemeanor warrants and that White's name was associated with those warrants. Officer Hall observed White coming out of a market, he recognized the man as White, and he crosschecked White's identity with

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² R.C. 4510.16.

³ Cincinnati Municipal Code 506-6.

⁴ R.C. 4549.02.

the photograph on his patrol car's computer. Hall attempted to stop White's vehicle, but the vehicle continued to drive away. A short pursuit followed, Officer Hall never lost sight of the Ford Explorer, which eventually crashed in a parking lot.

White and another passenger exited from the vehicle and ran away. Officer Hall did not pursue them on foot.

Hall testified at trial that he had entered the vehicle's license-plate number into his cruiser's computer and that Johnny White's name and photograph were linked to the warrants. Hall also stated that as White had approached the Ford Explorer, he verified White's identity by his photograph displayed on the computer. Hall recounted that he had observed White exit from the vehicle and flee from a distance of about ten feet, and that there was no doubt that White had been driving the vehicle.

Hall's defense at trial was mistaken identity, and that he had not been driving the vehicle that night.

When reviewing the sufficiency of the evidence to support a criminal conviction, we must examine the evidence admitted at trial in the light most favorable to the state. We must then determine whether that evidence could have convinced a rational trier of fact that the essential elements of the crime had been proved beyond a reasonable doubt.⁵ On the other hand, a review of the weight of the evidence puts the appellate court in the role of a "thirteenth juror."⁶ We must review the entire record, weigh the evidence, consider the credibility of the witnesses, and determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice.⁷ A new trial should be granted only in exceptional cases where the evidence weighs heavily against the conviction.⁸

⁵ See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus.

⁶ See *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

⁷ *Id.*, citing *Tibbs v. Florida* (1982), 457 U.S. 31, 42, 102 S.Ct. 2211.

⁸ *Id.*

In this case, White's conviction was against neither the weight nor the sufficiency of the evidence.

Officer Hall testified that he had verified White's identity by his photograph on the cruiser's computer, and that from a distance of about ten feet he had seen White exit from the vehicle and flee. The record does not support White's contention that he had not been driving the vehicle, and his assignment of error is therefore overruled.

The judgment of the trial court is affirmed.

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

CUNNINGHAM, P.J., HENDON and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on August 27, 2010

per order of the Court _____
Presiding Judge