

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

STATE OF OHIO,	:	APPEAL NOS. C-100317
		C-100318
Plaintiff-Appellee,	:	TRIAL NOS. 09CRB-34966A
		09CRB-34966B
vs.	:	
ARAM JORDAN,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

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

Defendant-appellant Aram Jordan appeals the judgment of the Hamilton County Municipal Court convicting him of criminal trespass and theft. For the reasons that follow, we affirm the judgment of the trial court.

On October 13, 2009, Jordan, a self-employed automobile mechanic, accompanied family friend Christian McKinney to Automobile Recovery Service (“ARS”) on Grand Avenue in Cincinnati to recover belongings from McKinney’s vehicle, which ARS had repossessed. One of the items McKinney and Jordan sought to recover was a Pioneer car stereo that Jordan testified McKinney had bought and installed in the vehicle after it had been purchased. McKinney and Jordan brought the original vehicle stereo with them to ARS with the intent of removing the Pioneer stereo and replacing it with the original.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 11.1.1.

Jordan testified that after a male ARS employee allowed McKinney and Jordan onto ARS's property, the male employee became upset when Jordan started to remove the Pioneer stereo. Another ARS employee, Karen Finn, then approached Jordan and McKinney and began shouting and threatening to call the police. Jordan testified that he left both the Pioneer stereo and the original stereo in the vehicle and then left ARS's property. Finn wrote down Jordan's license-plate number and called the police.

At trial, the prosecution presented one witness, Finn, who testified that ARS did not have any involvement in the loan covering McKinney's vehicle, and that the loan was between McKinney and Nicholas Financial. Finn further testified that she had actually seen Jordan removing the Pioneer stereo and that she had told him five times to stop, but that Jordan had refused to get out of the vehicle until he had removed the stereo from the vehicle's dashboard. Finn also testified that she had seen Jordan hand McKinney the Pioneer stereo as the two left ARS's property.

Jordan was found guilty after a bench trial of criminal trespass under R.C. 2911.21(A) and theft under R.C. 2913.02. At sentencing, the trial court imposed costs on Jordan, which the trial court stayed pending this appeal.

In Jordan's sole assignment of error, he contends that the trial court erred by convicting him of theft and criminal trespass because his convictions were not supported by sufficient evidence and were against the manifest weight of the evidence. In conducting a review for sufficiency of the evidence, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the state, "any rational trier of fact could have found the essential elements of the crime proven

beyond a reasonable doubt.”² To reverse a conviction on manifest-weight grounds, we must determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice in finding the defendant guilty.³ In reaching our determination, we assume the role of a “thirteenth juror” so we must review the entire record, weigh the evidence, and consider the credibility of the witnesses.⁴

We address Jordan’s theft conviction first. R.C. 2913.02(A)(1) provides that “[n]o person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services * * * [w]ithout the consent of the owner or person authorized to give consent[.]” Jordan argues that the prosecution failed to prove ownership. Jordan argues that Finn admitted that the vehicle did not belong to ARS, and that the only evidence presented at trial showed that the Pioneer stereo belonged to McKinney. The prosecution responds that ARS, as an agent of the lender, was the “owner” for purposes of Jordan’s theft offense.

R.C. 2913.01(D) provides, “ ‘Owner’ means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.”

Because ARS was clearly in possession or control of the Pioneer stereo at the time Jordan removed it, ARS was an “owner” as defined by R.C. 2913.01(D). Therefore, we cannot say that Jordan’s theft conviction was based on insufficient evidence, nor can we hold that the theft conviction was against the manifest weight

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

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

⁴ *Id.*

of the evidence. Jordan's assignment of error as it pertains to his theft conviction is overruled.

Jordan also challenges the sufficiency and weight of the evidence adduced to support his trespass conviction because, Jordan argues, he had permission from an ARS employee to enter the premises, and because he remained on ARS's property only for as long as it took him to remove the Pioneer stereo. The prosecution counters that Jordan failed to leave when he was instructed by Finn to do so and that, therefore, Jordan's privilege to remain on the property terminated.

R.C. 2911.21(A), Ohio's criminal-trespass statute, states that "[n]o person, without privilege to do so, shall * * *(1) [k]nowingly enter or remain on the land or premises of another; [or] (2) [k]nowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard[.]"

Finn testified that she had told Jordan to leave five times and had threatened to call the police. Jordan knew that he was on ARS's property, as he had asked for permission to enter. When he was told to leave, Jordan should have left the area because he had no right to stay on the property. Based upon our review of the record, we cannot say that no rational trier of fact could have found Jordan guilty of trespassing. Nor can we say that the trial court clearly lost its way and created a manifest miscarriage of justice in finding Jordan guilty of that offense. Jordan's assignment of error is overruled as it pertains to his criminal-trespass conviction.

In conclusion, we affirm the trial court's judgment convicting Jordan of theft and criminal trespass in the cases numbered 09CRB-34966B and 09CRB-34966A.

OHIO FIRST DISTRICT COURT OF APPEALS

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.

HILDEBRANDT, P.J., CUNNINGHAM and FISCHER, JJ.

To the Clerk:

Enter upon the Journal of the Court on June 10, 2011

per order of the Court _____.
Presiding Judge