

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

STATE OF OHIO,	:	APPEAL NO. C-130386
Plaintiff-Appellee,	:	TRIAL NO. 12CRB-31710
vs.	:	<i>JUDGMENT ENTRY.</i>
TERRY DOUGLAS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Terry Douglas appeals from the judgment of the Hamilton County Municipal Court convicting him, after a bench trial, of the offense of unauthorized use of a vehicle, in violation of R.C. 2913.03(A).

Douglas's conviction is based on his operation of a 2012 Chrysler 200. The Enterprise Rent-A-Car company had rented the Chrysler to Tiffany Ford, but later reported it as stolen after Ford had failed to return it at the expiration of the rental period. In October 2012, Officer James Davis of the Cincinnati Police Department observed Douglas operating the Chrysler and effectuated a stop of the vehicle. Douglas complied with the officer's order to stop and exit from the vehicle, but Douglas did not explain his possession of the vehicle to the officer.

Douglas was then charged by complaint with the unauthorized use of a motor vehicle. The complaint specified the degree of the offense as an "M-1." At trial, Jonathan Beckley, a representative of Enterprise, testified that Douglas had not entered into any

rental agreement with Enterprise concerning the Chrysler and that Douglas did not have permission to operate it. Douglas did not testify or present any evidence to explain his possession of the vehicle.

In his first assignment of error, Douglas contends that his conviction is void because the complaint charged a felony offense and the municipal court lacked subject-matter jurisdiction to conduct a trial in a felony case.

While Douglas is correct that a municipal court lacks jurisdiction to conduct a trial in a felony case, the municipal court does have subject-matter jurisdiction with respect to misdemeanor offenses. *See* R.C. 1901.20(A) and (B). In this case, the record demonstrates that Douglas was charged with, tried for, and convicted of a misdemeanor offense, even though the complaint did contain language that would also support a felony charge. Because the trial court did not lack subject-matter jurisdiction to proceed with the prosecution of a misdemeanor offense, we overrule the first assignment of error.

In his second, third, and fourth assignments of error, Douglas challenges the sufficiency of the evidence to support his conviction, as well as the weight given to it by the trial court. He argues that his conviction was not supported by sufficient evidence because the state failed to prove that he knew that he lacked the consent of the owner or person authorized to give consent. Alternatively, Douglas argues that the evidence of his compliance with Officer Davis's order to stop and to exit from the Chrysler outweighs any evidence of guilt. We disagree with both contentions.

In support of his argument that the state must prove knowledge of lack of consent, Douglas cites case law interpreting other statutory offenses. But the unauthorized use statute provides that “[n]o person shall knowingly use or operate a[] * * * motor vehicle * * * without the consent of the owner or person authorized to give consent.” R.C. 2913.03(A). A defendant may assert two statutory affirmative defenses to this charge. He may claim that at the time of the offense (1) he reasonably, but mistakenly, believed that

he “was authorized to use or operate the property” or (2) he “reasonably believed that the owner or person empowered to give consent would authorize” him “to use or operate the property.” R.C. 2913.03(C)(1) and (2).

As demonstrated by the plain language of the unauthorized-use statute, the state in this case was not required to prove as part of its prima facie case that Douglas knew that he lacked the consent of the owner of the Chrysler or a person authorized to give consent. The state was only required to prove that Douglas had knowingly operated the vehicle and that he had lacked the consent of the owner or a person authorized to give consent. Officer Davis’s and Beckley’s testimony established the elements of the prima facie case based on the lack of the consent of the owner, Enterprise. This testimony was not impeached. And Douglas did not present any evidence in support of a statutory affirmative defense.

In sum, we hold that the trial court had before it sufficient evidence on all the elements of the offense. *See State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus, following *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *State v. Carter*, 72 Ohio St.3d 545, 553, 651 N.E.2d 965 (1995). Further, we hold that there is no basis to conclude that the trial court lost its way or committed a manifest miscarriage of justice in resolving the factual issues against Douglas. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Accordingly, we overrule the second, third, and fourth assignments of error.

Therefore, we affirm the trial court’s judgment.

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

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

To the clerk:

Enter upon the journal of the court on April 30, 2014

per order of the court _____.
Presiding Judge