

[Cite as *State v. Crump*, 2009-Ohio-4110.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 22862
v.	:	T.C. NO. 07 CRB 19171
STEVEN L. CRUMP	:	(Criminal appeal from Municipal Court)
Defendant-Appellant	:	
	:	

**OPINION**

Rendered on the 14<sup>th</sup> day of August, 2009.

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DONOVAN, P.J.

{¶ 1} Defendant-appellant Steven L. Crump appeals his conviction and sentence for one count of falsification, in violation of R.C. § 2921.13(A)(3), a misdemeanor of the first degree.

{¶ 2} On December 3, 2007, Crump was charged by complaint with one count of

personating an officer, in violation of R.C. § 2913.44, and one count of falsification, in violation of R.C. § 2921.13(A)(3), both misdemeanors of the first degree. Crump plead not guilty to both charges at his arraignment on December 13, 2007.

{¶ 3} Following a jury trial on April 10, 2008, Crump was acquitted of personating an officer, but he was found guilty of falsification. On July 1, 2008, Crump was sentenced to 180 days imprisonment which was suspended. Crump also received two years of community control and was ordered to pay court costs. Crump filed a timely notice of appeal with this Court on July 24, 2008.

## I

{¶ 4} On November 20, 2007, Dayton Police Officer Stephen Clark was dispatched to a bus stop at the corner of Forest Ridge and Acclivis Lane in Dayton, Ohio, to investigate a report of a white van driving recklessly near a bus stop where preschool age children were waiting to be transported to school. The dispatch which Officer Clark received indicated that he would be meeting another police officer, Officer Steven Crump, who had witnessed the reckless driving while he was dropping off his own 5 year old child at the bus stop.

{¶ 5} When Officer Clark arrived at the scene, he spoke with Crump who described the incident. While responding to the complaint, Officer Clark indicated that Crump told him that he was planning on buying an assault rifle. Officer Clark testified that Crump asked him about any laws in Dayton regarding the purchase of assault rifles. Because he thought Crump's questions were "odd," Officer Clark asked him where he worked, and Crump stated that he was a deputy with the Clark County Sheriff's Department.

{¶ 6} After he answered some of Crump's questions regarding the legality of

assault rifles, Officer Clark testified that he finished his investigation regarding Crump's report of a reckless driver. After concluding his investigation and leaving the scene, Officer Clark called the Clark County Sheriff's Department and asked if Crump was employed there as a deputy. According to Officer Brenda Gregory at the Ohio Peace Officer Training Academy (OPOTA) and Major Russell Garman, Crump was never employed as a Clark County Sheriff's Deputy. Officer Clark's investigation revealed that although Crump had been employed as a police officer at some point, his commission had expired on May 1, 2005, and Crump failed to complete the refresher training course required by OPOTA in order to retain his commission. Crump also failed to complete an exam which was required following a one-year break in service as a police officer. Crump was subsequently arrested and charged with one count of personating an officer and one count of falsification.

{¶ 7} After a jury trial, Crump was convicted of falsification and found not guilty of personating an officer. The trial court sentenced him accordingly. It is from this judgment that Crump now appeals.

## II

{¶ 8} Crump's first assignment of error is as follows:

{¶ 9} "THE TRIAL COURT ERRED WHEN IT OVERRULED THE DEFENDANT'S MOTION FOR ACQUITTAL."

{¶ 10} In his first assignment, Crump contends that the trial court erred when it overruled his Crim. R. 29 motion for acquittal made at the close of the State's case because the evidence presented by the State was insufficient as a matter of law to sustain a conviction for falsification.

{¶ 11} Crim. R. 29(A) states that a court shall order an entry of judgment of acquittal if the evidence is insufficient to sustain a conviction for the charged offense. “Reviewing the denial of a Crim. R. 29 motion therefore requires an appellate court to use the same standard as is used to review a sufficiency of the evidence claim.” *State v. Witcher*, Lucas App. No. L-06-1039, 2007-Ohio-3960. “In reviewing a claim of insufficient evidence, ‘[t]he relevant inquiry is whether, after reviewing 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.’ (Internal citations omitted).” *State v. Crowley*, Clark App. No. 2007 CA 99, 2008-Ohio-4636.

{¶ 12} Crump was convicted of falsification in violation of R.C. § 2921.13(A)(3), which provides that “(A) no person shall knowingly make a false statement, \*\*\* when \*\*\* (3) the statement was made with purpose to mislead a public official in performing the public official’s official function.” Thus, in order to sustain a conviction for falsification under this section of the statute, the State must have proven beyond a reasonable doubt that Crump: 1) knowingly, 2) made a false statement, 3) with purpose to mislead a public official in performing his or her official function. R.C. § 2921.13(A)(3).

{¶ 13} “A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature.” R.C. § 2901.22(B). Officer Clark testified that Crump specifically stated that he was employed as a deputy at the Clark County Sheriff’s Office. Officer Clark’s investigation into the truth of Crump’s statement led him to the discovery that Crump was never employed in any capacity at the Clark County Sheriff’s Office. Moreover, Brenda Gregory’s testimony

established that Crump had not been employed as a police officer since May of 2005. The jury could reasonably conclude that Crump was aware that he was not a deputy in Clark County, and, more importantly, that he had not been employed as a police officer for almost two years when he made the obviously false statements to Officer Clark. Thus, Crump's actions in this regard are sufficient to satisfy the elements that he "knowingly made a false statement" in order to support the jury's guilty verdict for the crime of falsification.

{¶ 14} Crump also asserts that the evidence submitted by the State was insufficient to establish beyond a reasonable doubt that his statement misled Officer Clark in the performance of his official duties. Initially, we note that Crump indicated to the police dispatcher that he was a police officer when he called to report a white van driving recklessly near the bus stop. During the trial, the audio tape recording was played in which Crump called in to report the incident and also informed the dispatcher that he was a police officer:

{¶ 15} "Operator: May I help you?"

{¶ 16} "Crump: Good morning. How are you?"

{¶ 17} "Operator: I'm fine, sir. How can I help you?"

{¶ 18} "Crump: Yes, ma'am. We had an accident<sup>1</sup> at a bus stop this morning with uh a vehicle that was sitting at a bus stop (inaudible) all the kids parents.

{¶ 19} "Operator: (Inaudible)."

{¶ 20} "Crump: The vehicle and a bus pulled up, it was a preschooler's bus, and it was a preschooler standing walking towards the corner to get on the bus with the mom and

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<sup>1</sup> The record before us does not reveal that any accident occurred. Rather, the record demonstrates only Crump's purported concern for children in the area of the bus stop.

me.

{¶ 21} “Operator: Okay.

{¶ 22} “Crump: And this car literally took off, squealed the tires all the way down the road and took off flying out the neighborhood.

{¶ 23} “Operator: Um okay. Did you get a license plate number of that car?”

{¶ 24} “Crump: No, I know who it was.

{¶ 25} “Operator: Okay, you do?”

{¶ 26} “Crump: Yeah *I’m also a police officer.*

{¶ 27} “Operator: Okay.

{¶ 28} “Crump: And my little five year-old, a bunch of five year-olds standing there, six year-old and kids all the way down to the main drag standing at bus stops with him riding like this and the bus driver even asked said that was the most inappropriate thing –

{¶ 29} “\*\*\*”

{¶ 30} “Crump: – Because she felt that it was very unsafe and I told her I would call. So I would uh do my little if the officer comes out or calls that might of (inaudible).”

{¶ 31} Officer Clark, who was clearly acting in his official capacity when he was dispatched to investigate Crump’s claim, was, therefore, led to believe that he would be dealing with another police officer when he arrived at the scene. Once Officer Clark was at the scene, Crump advised him that he was in fact a deputy with Clark County Sheriff’s Office. Crump then questioned Officer Clark regarding the legality of ownership of assault rifles. Without delving into a hypothetical discussion of Crump’s motives for telling Officer Clark that he was an acting police officer, we can only assume that his intent was to

mislead Officer Clark into believing that he was speaking with a fellow law enforcement officer in order to receive some degree of preferential treatment in regards to his emergency call to report the van driving recklessly near his child's bus stop. It is noteworthy that while in performance of his official duties, Officer Clark testified that he approached meetings with other police officers in a different, more relaxed manner than he would when meeting a citizen who was not an police officer.

{¶ 32} Thus, a review of the record convinces us that the State's evidence, taken in its entirety, was sufficient to sustain Crump's conviction for falsification. In light of our holding in this regard, the trial court did not err when it overruled Crump's Crim. R. 29(A) motion for acquittal made at the close of the State's case as the evidence presented was sufficient to support his conviction.

{¶ 33} Crump's first assignment of error is overruled.

### III

{¶ 34} Crump's second and final assignment of error is as follows:

{¶ 35} "THE JURY'S VERDICT IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND SHOULD BE OVERTURNED."

{¶ 36} In his final assignment, Crump argues that his conviction for falsification was against the manifest weight of the evidence.

{¶ 37} "A challenge to the sufficiency of the evidence differs from a challenge to the manifest weight of the evidence." *State v. McKnight*, 107 Ohio St.3d 101,112, 2005-Ohio-6046. "In reviewing a claim of insufficient evidence, '[t]he relevant inquiry is whether, after reviewing 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.’ (Internal citations omitted). A claim that a jury verdict is against the manifest weight of the evidence involves a different test. ‘The court, 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. The discretionary power to grant a new trial should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction.’” *Id.* (Internal citations omitted).

{¶ 38} The credibility of the witnesses and the weight to be given to their testimony are matters for the trier of facts to resolve. *State v. DeHass* (1967), 10 Ohio St.2d 230, 231.

“Because the factfinder \* \* \* has the opportunity to see and hear the witnesses, the cautious exercise of the discretionary power of a court of appeals to find that a judgment is against the manifest weight of the evidence requires that substantial deference be extended to the factfinder’s determinations of credibility. The decision whether, and to what extent, to credit the testimony of particular witnesses is within the peculiar competence of the factfinder, who has seen and heard the witness.” *State v. Lawson* (Aug. 22, 1997), Montgomery App. No. 16288.

{¶ 39} This court will not substitute its judgment for that of the trier of facts on the issue of witness credibility unless it is patently apparent that the trier of fact lost its way in arriving at its verdict. *State v. Bradley* (Oct. 24, 1997), Champaign App. No. 97-CA-03.

{¶ 40} Crump’s conviction is also not against the manifest weight of the evidence.



The credibility of the witnesses and the weight to be given their testimony were matters for the jury to resolve. Crump presented no evidence during trial. The jury did not lose its way simply because it chose to believe the State's witnesses, namely Officer Clark and Brenda Gregory. Having reviewed the entire record, we cannot clearly find that the evidence weighs heavily against a conviction, or that a manifest miscarriage of justice has occurred.

{¶ 41} Crump's final assignment of error is overruled.

#### IV

{¶ 42} All of Crump's assignments of error having been overruled, the judgment of the trial court is affirmed.

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BROGAN, J. and GRADY, J., concur.

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