

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

STATE OF OHIO,	:	APPEAL NO. C-090329
	:	TRIAL NO. 09CRB-9475
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
EDWARD LINDENSCHMID,	:	
	:	
Defendant-Appellant.	:	

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

Defendant-appellant, Edward Lindenschmid, appeals his conviction for violating Cincinnati Municipal Code Section 910-7, the city’s loud-noises ordinance. We find no merit in his assignments of error, and we affirm his conviction.

In his first assignment of error, Lindenschmid argues that the evidence was insufficient to support his conviction. Specifically, he contends that there was no evidence that he had been present when the violation occurred.

Cincinnati Municipal Code 910-7 states, “No person, firm or corporation shall operate or cause to be operated any whistle, rattle, bell, gong, clapper, hammer, drum, horn, radio, phonograph or other sound-producing or sound-amplifying instrument so as to emit loud and raucous noises or in any other way create noise or sound, or permit the creation of noise or sound in such manner as to disturb the peace and quiet of a neighborhood or as to interfere with the transaction of business or other ordinary pursuits.”

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

The record shows that Lindenschmid was working as the manager of Longworth's, a bar in the Mt. Adams section of Cincinnati, when, at about 2:00 a.m. on March 22, 2009, music from the bar was so loud that it woke a neighbor living a block away. A rational trier of fact, after viewing the evidence in a light most favorable to the prosecution, could have found that the state had proved beyond a reasonable doubt all the elements of a violation of the ordinance. Therefore, the evidence was sufficient to support Lindenschmid's conviction.<sup>2</sup> We overrule the first assignment of error.

In his second assignment of error, Lindenschmid argues that it was error to convict him because the complaining witness had not given him "the chance to reduce the volume on his own before calling the police." But the violation of the ordinance had already occurred before the witness had notified the police. Regardless, the state was required to prove only the elements of the offense. We overrule the second assignment of error and affirm the trial court's judgment.

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., SUNDERMANN and HENDON, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on February 24, 2010  
per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>2</sup> See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492.