

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

STATE OF OHIO,	:	APPEAL NOS. C-170155
		C-170156
Plaintiff-Appellee,	:	TRIAL NOS. 15CRB-28800 A, B
vs.	:	<i>JUDGMENT ENTRY.</i>
MICHAEL LANCE GRIFFIN,	:	
Defendant-Appellant.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant was found guilty of engaging in selling at retail without the required license in violation of R.C. 5739.31(A), a minor misdemeanor, and failing to file a sales tax return in violation of R.C. 5739.30(A), an unclassified misdemeanor, following a bench trial. He appeals his convictions, raising six assignments of error.

Following our precedent, we must dismiss the appeal with respect to the selling-at-retail-without-a-license conviction for lack of a final, appealable order because the court did not impose a sentence, only court costs. *See State v. Sims*, 1st Dist. Hamilton No. C-160856, 2017-Ohio-8379, ¶ 7.¹ Griffin's first assignment of error related solely to

¹ We note that the Ohio Supreme Court has accepted this issue for review in *State v. White*, 1st Dist. Hamilton Nos. C-160403 and C-160410 (Jun. 14, 2017), *appeal accepted*, 152 Ohio St.3d 1405, 2018-Ohio-723, 92 N.E.3d 878 (Table).

the conviction for selling at retail without a license and will not be addressed because we must dismiss the appeal numbered C-170155 from that conviction.

In the appeal numbered C-170156, Griffin raises five assignments of errors, challenging his failure-to-file-a-sales-tax-return conviction. However, Griffin failed to file the portions of the transcript necessary to address the fourth and sixth assignments of error, which challenged the sufficiency of the evidence, and the fifth assignment of error, which challenged the discovery procedures. “When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and thus, as to those assigned errors, the court has no choice but to presume the validity of the lower court's proceedings, and affirm.” *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199, 400 N.E.2d 384 (1980). Accordingly, we overrule the fourth, fifth, and sixth assignments of error.

In his second assignment of error, Griffin argues that he was not arraigned on the failure-to-file-a-tax-return offense. However, the judge’s sheet reflects that he was arraigned on November 16, 2015, and pled not guilty. Without a transcript of the arraignment, we must presume the regularity of the proceedings. *See id.* Accordingly, we overrule the second assignment of error.

In his third assignment of error, Griffin claims that the complaint was defective because it was unsworn, and therefore, the trial court lacked subject-matter jurisdiction. The filing of a valid complaint is sufficient to invoke the jurisdiction of the municipal court. *State v. Metcalf*, 1st Dist. Hamilton No. C- 120041, 2012-Ohio-4947, ¶ 6. A valid complaint must contain the essential facts of the charged offense, the statute, and be “made upon oath before any person authorized by law to administer oaths.” *Id.* at ¶ 6, citing Crim.R. 3.

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In this case, the complaint fully complied with Crim.R. 3. The complaint included the facts of the offense, the statute violated, and was sworn to and subscribed before a deputy clerk of the municipal court. Thus, the trial court had subject-matter jurisdiction. We overrule his third assignment of error.

Accordingly, we affirm the judgment of the trial court in the appeal numbered C-170156, and dismiss the appeal numbered C-170155 for lack of a final, appealable order.

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.

MOCK, P.J., ZAYAS and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on June 27, 2018

per order of the court _____.

Presiding Judge