

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

STATE OF OHIO,	:	APPEAL NOS. C-170685
		C-170686
Plaintiff-Appellee,	:	TRIAL NOS. 15TRC-8462A
		15TRC-8462C
vs.	:	
		<i>JUDGMENT ENTRY.</i>
EUGENE MERRIWEATHER,	:	
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.

Following a bench trial, defendant-appellant Eugene Merriweather was convicted of driving under the influence of alcohol (“DUI”) under R.C. 4511.19(A)(1)(a) and operating a vehicle without reasonable control under R.C. 4511.202. While Merriweather has filed notices of appeal from both convictions, he does not raise any argument relating to the reasonable-control conviction. Therefore, we dismiss the appeal numbered C-170686. *See State v. Chapman*, 1st Dist. Hamilton Nos. C-160397, C-160398 and C-160399, 2017-Ohio-8181, ¶ 1.

In the appeal numbered C-170685, Merriweather asserts a single assignment of error, in which he contends that the trial court erred in finding him guilty of DUI. He argues that the conviction was against the manifest weight of the evidence. This assignment of error is not well taken.

R.C. 4511.19(A)(1)(a) provides that “[n]o person shall operate any vehicle * * * within this state, if, at the time of the operation, * * * [t]he person is under the

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influence of alcohol, a drug of abuse, or a combination of them.” Three witnesses, with training in determining if someone is under the influence of alcohol, testified that, in their opinions, Merriweather was under the influence of alcohol, and that it adversely affected and noticeably impaired his ability to operate a vehicle. He was in a one-car accident late at night, and his vehicle was “wrapped around a pole.” Though the police report stated that there was wet snow, a police officer testified that the roads were clear. Merriweather’s demeanor and behavior at the scene and at the hospital, as well as the odor of alcohol about his person, support the inference that he was driving a vehicle while under the influence of alcohol. *See State v. Benton*, 1st Dist. Hamilton Nos. C-130556, C-130557 and C-130558, 2014-Ohio-2163, ¶ 17-22; *State v. Colyer*, 1st Dist. Hamilton Nos. C-120347, C-120348 and C-120349, 2013-Ohio-1316, ¶ 6-12.

After reviewing the record, we cannot say that the trier of fact lost its way and created such a manifest miscarriage of justice that we must reverse Merriweather’s conviction and order a new trial. Therefore, the conviction was not against the manifest weight of the evidence. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997); *State v. Weir*, 1st Dist. Hamilton No. C-050236, 2006-Ohio-4127, ¶ 13. Consequently, we overrule Merriweather’s sole assignment of error and affirm the trial court’s judgment in the appeal numbered C-170685.

A certified copy of this judgment entry constitutes 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., CUNNINGHAM and MILLER, JJ.

To the clerk:

Enter upon the journal of the court on August 17, 2018
per order of the court _____.
Presiding Judge