

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

STATE OF OHIO,	:	APPEAL NOS. C-180013
		C-180014
Plaintiff-Appellee,	:	TRIAL NOS. 17CRB-10778A
		17CRB-10778B
vs.	:	
		<i>JUDGMENT ENTRY.</i>
ANTOINETTE CLARK,	:	
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 Antoinette Clark was convicted of criminal damaging in violation of R.C. 2909.06 and theft in violation of R.C. 2913.02. Clark has appealed her convictions, arguing in a single assignment of error that they were not supported by sufficient evidence and were against the manifest weight of the evidence. She contends that the state failed to establish her identity as the perpetrator of the offenses.

On April 2, 2017, at approximately 3:30 a.m., the tires on Brittany Beck's vehicle were slashed and the vehicle's gas cap was taken.

Evidence presented at the bench trial established that the vehicle had been parked outside of Roosevelt Williams's apartment when the offenses occurred. Beck

had stayed overnight at Williams's apartment because she was in a relationship with Williams's son, Marc Williams, who was Clark's estranged husband.

A surveillance camera recording that captured the offenses showed that the perpetrator had driven a white Oldsmobile. Beck identified Clark as the person on the video damaging her vehicle. Beck and Clark had previously been engaged in two confrontations, and Beck recognized Clark based on her height and build. Beck further testified that during the time period of the offenses, Clark had driven a white Oldsmobile. She testified that both Clark's vehicle and the vehicle in the recording were the same color and model and were both missing a hubcap.

Roosevelt Williams also testified that Clark was the person captured in the surveillance video. He had known Clark for 19 years, and recognized her based on the way she walked and the way she wore her hair. Williams also testified that at the time of the offenses, Beck had driven a white Oldsmobile that had a missing hubcap.

Following our review of the record, we find that the state presented sufficient evidence to establish Beck's identity as the perpetrator of these offenses. *See State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

We further find that Beck's convictions were not against the manifest weight of the evidence. Beck had presented an alibi defense through the testimony of Richard Bedford, her former employer. Bedford testified that Beck was an employee at his restaurant on April 2, 2017, and that the restaurant's clock-in system from that date indicated that Beck had worked from 12:31 a.m. until 4:46 a.m. But Bedford's testimony was solely based on system records. He had no recollection of whether Clark had actually been at the restaurant during that time period. He also testified that the restaurant closes at 1:00 a.m. and does not have a typical shift that begins at 12:30 a.m.

OHIO FIRST DISTRICT COURT OF APPEALS

The trial court, in weighing the evidence and the credibility of the witnesses, was entitled to reject Clark's alibi and to rely on the identification testimony offered by Beck and Williams. *See State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. In addition, an inference could be made that even if Clark clocked in and out at those times, she may have left and come back. This was not the rare case in which the trial court committed such a manifest miscarriage of justice in convicting Clark that her convictions must be reversed. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997).

Clark's convictions were supported by the sufficiency and the weight of the evidence. The sole assignment of error is overruled, and the judgments of the trial court are affirmed.

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., MYERS and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on August 29, 2018
per order of the court _____.
Presiding Judge