

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

STATE OF OHIO,	:	APPEAL NOS. C-200088
		C-200089
Plaintiff-Appellee,	:	TRIAL NO. 19TRD-34239
vs.	:	<i>JUDGMENT ENTRY.</i>
RONALD THOMPSON,	:	
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 Ronald Thompson was convicted of making an improper change of course under Cincinnati Municipal Code 506.80 and failing to stop after an accident under R.C. 4549.02. We find no merit in his sole assignment of error, and we affirm his convictions.

In his sole assignment of error, Thompson contends that his convictions were against the manifest weight of the evidence. He argues that the evidence showed that he was not the driver of the car involved in the accident, and instead showed that his son was the driver. This assignment of error is not well taken.

Thompson is arguing that his evidence was more credible than the state's evidence. Matters as to the credibility of the witnesses were for the trier of fact to decide. *State v. Bryan*, 101 Ohio St.3d 272, 2004-Ohio-971, 804 N.E.2d 433, ¶ 116; *State v. Johnson*, 1st Dist. Hamilton No. C-170371, 2018-Ohio-4131, ¶ 57. A

reviewing court gives “great deference” to the trial court, because the trial court is “best able to view the witnesses and observe their demeanor, gestures, and voice inflections and use these observations in weighing the credibility of the proffered testimony.” *State v. Stanley*, 121 Ohio App.3d 673, 692, 700 N.E.2d 881 (1997), quoting *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80, 461 N.E.2d 1273, (1984). “This court cannot simply substitute its judgment for that of the trial court * * *.” *Id.* at 692.

Thompson also argues that the victim’s identification of him as the driver was unreliable. He contends that the process used was suggestive because the police officer at the scene showed only one photograph to the victim. But Thompson never filed a motion to suppress, and therefore, waived the issue. *See State v. Allen*, 73 Ohio St.3d 626, 634, 653 N.E.2d 675 (1995).

Further, even if the use of a single photograph was suggestive, reliable identification testimony may be admitted regardless of the flaws in the identification process. *Id.* at 634; *State v. Neal*, 1st Dist. Hamilton No. C-140667, 2015-Ohio-4705, ¶ 28. The victim had a direct view of Thompson immediately before the collision, she was consistent in asserting that the driver was a middle-aged man, she identified him from the photograph immediately after the collision, and she remained certain of her identification. Under the circumstances, her identification was reliable. *See Allen* at 634; *Neal* at ¶ 28.

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 his convictions and order a new trial. Therefore, the convictions were 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. Cedeno*, 192 Ohio App.3d 738, 2011-Ohio-674, 950 N.E.2d 582, ¶

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25 (1st Dist.). Consequently, we overrule Thompson's assignment of error and affirm his convictions.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

MYERS, P.J., WINKLER and BOCK, JJ.

To the clerk:

Enter upon the journal of the court on June 30, 2021,
per order of the court _____.
Administrative Judge