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

| | | |
|---|---|---|
| STATE OF OHIO, | : | APPEAL NO. C-240129<br>TRIAL NO. 23CRB-19455 |
| Plaintiff-Appellee, | : | |
| | : | |
| vs. | | *JUDGMENT ENTRY* |
| | : | |
| LUCAS CEDILLO, | : | |
| Defendant-Appellant. | : | |

The court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

On November 5, 2023, defendant-appellant Lucas Cedillo was arrested and charged under R.C. 2917.11(B)(1) with disorderly conduct following events that took place at Uncle Woody's ("Woody's") bar near the University of Cincinnati's campus. Upon arriving at Woody's, Mr. Cedillo was denied entry because employees were trained to turn away anyone they believed had already consumed too much alcohol.

The Woody's employees testified that Mr. Cedillo's motor coordination was impaired, his speech was slurred, and he strongly smelled of alcohol. The employees repeatedly asked him to leave while he protested their denial of his entry. This quickly devolved into a verbal altercation, that eventually turned physical as Mr. Cedillo became physically aggressive with a Woody's bartender.

Once Mr. Cedillo physically touched the bartender, the bartender pushed him and called the police. Officer Myers arrived on the scene, separated the parties, and gave Mr. Cedillo a warning, telling him to "just go home." Nevertheless, Mr. Cedillo immediately ran back across the street to the bar to try to obtain a video of the altercation between him and the employees, and was subsequently arrested.

After a bench trial, he was convicted and received a suspended 30-day sentence and one-year probation. In his sole assignment of error, he argues that his conviction was based on insufficient evidence and was contrary to law. After reviewing the transcript and record before us, however, we disagree.

In reviewing whether a conviction is supported by sufficient evidence, a court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *State v. Monroe*, 2005-Ohio-2282, ¶ 47, citing *State v. Jenks*, 61 Ohio St.3d 259 (2001), paragraph two of the syllabus. The appellate court does not consider the credibility of the evidence but only, if believed, whether the evidence sustains the verdict as a matter of law. *State v. Richardson*, 2016-Ohio-8448, ¶ 13. We review a sufficiency-of-the-evidence challenge de novo. *State v. Bertram*, 2023-Ohio-1456, ¶ 8.

Under R.C. 2917.11(B)(1), "[n]o person, while voluntarily intoxicated, shall . . . [i]n a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others." For disorderly conduct to rise to the level of a misdemeanor of the fourth degree, the offender must persist after reasonable warning or request to stop. R.C.

2917.11(E)(3)(a). Mr. Cedillo does not dispute being voluntarily intoxicated or that his behavior occurred in the presence of two or more persons. He only challenges whether he acted in a way likely to cause inconvenience, annoyance, or alarm to a person of ordinary sensibilities.

First, Mr. Cedillo insists that there was no direct evidence that his conduct, if he was not intoxicated, would have caused inconvenience, annoyance, or alarm to the bouncers, proprietors, or other patrons. He reasons that his conduct was nothing but harmless banter and, without awareness that his behavior bothered others, he cannot be convicted under the statute.

This argument requires a fair amount of speculation and is ultimately unpersuasive. The law is well-settled that evidence of an individual being physically aggressive supports a conviction for disorderly conduct. *State v. Barnes*, 2006-Ohio-1748, ¶ 9 (1st Dist.), citing *State v. Bay*, 130 Ohio App.3d 772, 773 (1st Dist. 1998). Mr. Cedillo eventually became physically aggressive with a Woody's employee. He angrily began poking the Woody's bartender and continued even once he was asked to stop.

Finally, R.C. 2917.11(E)(3)(a) only requires a single request or warning to stop before an individual is deemed persistent. *State v. Bailey*, 2002-Ohio-3133, ¶ 46 (1st Dist.). As the record reflects, Woody's personnel and Officer Myers requested Mr. Cedillo to desist multiple times before his arrest. Thus, the evidence establishes that his disorderly conduct rose to the level of a misdemeanor of the fourth degree.

The physical and persistent nature of his actions would allow a reasonable fact-finder to find that Mr. Cedillo caused inconvenience, annoyance, or alarm to the employees, proprietors, and other patrons of Woody's. His behavior strongly supports a finding that his

conviction for disorderly conduct was proper. Thus, his conviction was supported by sufficient evidence.

In deciding whether a conviction is against the manifest weight of the evidence, an appellate court determines whether the State has appropriately carried its burden of persuasion. *State v. Gibson*, 2023-Ohio-1640, ¶ 8 (1st Dist.). A reviewing court is expected to give deference to the conclusion of the trier of fact. *Iranpour-Boroujeni v. Emami*, 2024-Ohio-2546, ¶ 91 (1st Dist.). For a conviction to be against the manifest weight of the evidence, a reviewing court, weighing all evidence and all reasonable inferences, must determine that the trier of fact "clearly lost its way and created such a miscarriage of justice that the conviction must be reversed." *State v. Bowling*, 2024-Ohio-2881, ¶ 11 (1st Dist.), citing *State v. Martin*, 20 Ohio App. 3d 172, 175 (1st Dist. 1983). And every reasonable presumption must be made in favor of the judgment and the findings of fact. *In re Z.C.*, 2023-Ohio-4703, ¶ 14.

Mr. Cedillo's conviction is not against the manifest weight of the evidence. Based on our extensive review of the record, we see no miscarriage of justice. Mr. Cedillo was repeatedly asked to stop his behavior by Woody's employees and Officer Myers of the Cincinnati Police Department. Mr. Cedillo physically touched a Woody's employee, shouted profanities at Woody's employees, and made three prospective patrons uncomfortable to the point where they left. Because the State carried its burden of persuasion and there is strong evidence supporting his conviction, we hold that Mr. Cedillo's conviction is not against the manifest weight of the evidence.

For all of these reasons, we overrule Mr. Cedillo's sole assignment of error, and the judgment of the trial court is 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.

**ZAYAS, P.J., BERGERON** and **KINSLEY, JJ.**

**To the clerk:**
**Enter upon the Journal of the Court on 10/11/2024 per Order of the Court.**

**By:_____**
**Administrative Judge**