

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

STATE OF OHIO,	:	APPEAL NOS. C-180395
		C-180407
Plaintiff-Appellee,	:	TRIAL NOS. 17CRB-29964A,B
vs.	:	
		<i>JUDGMENT ENTRY.</i>
LAQUISHA KING,	:	
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 Laquisha King appeals the judgments of the Hamilton County Municipal Court, convicting her at a bench trial for violations of R.C. 2917.11(A), disorderly conduct, and R.C. 2921.33, resisting arrest. The convictions resulted from a 2017 verbal altercation between Ms. King and Officer Carlos Sherman in the entryway of a Kroger store. On appeal, Ms. King raises two assignments of error, challenging both the weight and sufficiency of the evidence underlying each of her convictions.

Reviewing challenges to the sufficiency of the evidence requires that we examine the evidence in the light most favorable to the state and determine whether a rational trier of fact could have found Ms. King guilty of all the essential elements of disorderly conduct and resisting arrest beyond a reasonable doubt. *See State v. Adams*, 1st Dist. Hamilton Nos. C-000388, C-000389 and C-000390, 2001 WL 958899, *3 (Aug. 24, 2001), citing *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991) paragraph two of the syllabus. A challenge to the weight of the evidence requires review of the entire record, weighing of the evidence and all reasonable inferences, and considering the

credibility of the witnesses to determine whether in resolving conflicts in the evidence the trier of fact lost its way, resulting in a manifest miscarriage of justice. *Id.*; *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997).

R.C. 2917.11(A)(2) prohibits a person from “recklessly caus[ing] inconvenience, annoyance, or alarm to another by * * * [m]aking unreasonable noise or an offensively coarse utterance, gesture, or display or communicating unwarranted and grossly abusive language to any person[.]” Ms. King challenges the sufficiency of the evidence here by asserting that the state failed to present evidence that her words were “fighting words” sufficient to maintain a conviction. Ms. King’s argument is premised upon the notion that her conviction rested solely on the content of her speech. The state, however, posits that Ms. King was also charged and convicted for making “unreasonable noise,” which does not require a showing of “fighting words” for conviction. *See State v. Cunningham*, 10th Dist. Franklin No. 06AP-145, 2006-Ohio-6373, ¶ 23 (“In the present case, the charge of disorderly conduct did not involve the content of appellant’s speech but was instead based on her manner of speech.”).

Therefore, to sustain the conviction for disorderly conduct the state was required to prove that Ms. King caused “inconvenience, annoyance, or alarm to another” by making “unreasonable noise.” Reviewing the evidence in the light most favorable to the state, Ms. King both yelled and screamed at Officer Sherman, went “berserk” and made a “huge scene,” all which transpired in the store’s front entrance. Officer Sherman also testified that she was arrested in part for “causing alarm.” Thus, the evidence here was sufficient to sustain Ms. King’s conviction. *See State v. Blair*, 2d Dist. Montgomery No. 24784, 2012-Ohio-1847, ¶ 12, 15 (sufficient evidence to support conviction when officers testified that the defendant’s conduct was “belligerent” and “disorderly”). Ms. King’s challenge to the weight of the evidence similarly fails. While there were certainly conflicts in the evidence presented, nothing in the record before us indicates that the trier of fact lost its way in resolving them.

Ms. King's second assignment of error relates to her conviction for resisting arrest. R.C. 2921.33(A) states that "[n]o person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another." Thus, the conviction for resisting arrest required that the state prove beyond a reasonable doubt that Ms. King either recklessly or by force, interfered with her lawful arrest. Initially, we find that the underlying conviction for disorderly conduct was proper and the officer had reasonable cause to make the arrest. *See State v. Matthews*, 1st Dist. Hamilton No. C-140663, 2015-Ohio-5075, ¶ 9 ("An arrest is lawful if the surrounding circumstances would give a reasonable police officer cause to believe that an offense has been * * * committed."). Thus, the arrest was lawful.

Furthermore, the evidence indicated that Officer Sherman told Ms. King she was under arrest and repeatedly told her to place her shopping bags on the ground, which she refused to do. Consequently, Officer Sherman needed to take hold of Ms. King and forcibly place her hands behind her back. While a close call, construing this evidence in the light most favorable to the prosecution, we must ultimately sustain Ms. King's conviction. *See State v. Keegan*, 67 Ohio App.3d 824, 827, 588 N.E.2d 928 (1st Dist.1990) ("The reasonable and natural construction of R.C. 2921.33 prohibits physical activity which prevents or delays an arrest[.]"); *State v. Thomas*, 9th Dist. Wayne No. 2910, 1995 WL 39402, *2 (Feb. 1, 1995) ("[C]onduct which delays an arrest procedure, or requires the use of additional force in an arrest procedure, may constitute resisting arrest.").

As to the weight of the evidence, the record is undisputed that Officer Sherman told Ms. King she was under arrest and to put down her shopping bags, and that she refused, which both delayed the arrest and forced the officer to forcefully pull her arms behind her back for purposes of effectuating the arrest. Ms. King conceded these points and Officer Sherman's body-camera footage of the arrest confirms as much. The conviction was not against the manifest weight of the evidence.

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Based on our review of the record, we hold that the convictions for disorderly conduct and resisting arrest were properly supported by both the sufficiency and weight of the evidence. We overrule both of Ms. King's assignments of error and affirm the judgments of the trial court.

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 BERGERON, JJ.

To the clerk:

Enter upon the journal of the court on December 4, 2019
per order of the court_____.

Presiding Judge