

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

STATE OF OHIO,	:	APPEAL NO. C-150510
Plaintiff-Appellee,	:	TRIAL NO. 15CRB-17972
vs.	:	<i>JUDGMENT ENTRY.</i>
SYLVESTER MCKINNEY,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Sylvester McKinney appeals his conviction for criminal trespassing, in violation of R.C. 2911.21(A), a fourth-degree misdemeanor.

On July 10, 2015, McKinney and a companion entered a local convenience store to buy beer and hot dogs. The part-time manager on duty recognized McKinney as a person who the store's principal manager had told her was not allowed in the store. The on-duty manager and another employee both instructed McKinney to leave. They informed McKinney that he could discuss the matter with the store manager the next day. When McKinney refused to leave, they summoned the police. McKinney remained inside the store for 15 minutes before leaving to await the arrival of the police. He waited outside the store entrance, on store property. Police officers arrived, conferred with the store

employees, and informed McKinney three times that he had to leave. After an additional five minutes of delay, McKinney was arrested and charged with criminal trespassing.

The trial court found McKinney guilty and sentenced him to 30 days in jail, with 29 days suspended and credit for the one day that he had already served.

In his single assignment of error, McKinney challenges the sufficiency of the evidence adduced to support his conviction. The test for the sufficiency of the evidence required to sustain a conviction is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *State v. Conway*, 108 Ohio St.3d 214, 2006-Ohio-791, 842 N.E.2d 996, ¶ 36; see *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). McKinney was convicted of criminal trespass, defined in R.C. 2911.21(A), which states that “[n]o person, without privilege to do so, shall \* \* \* [k]nowingly enter or remain on the land or premises of another \* \* \*.”

Without citation to any authority, McKinney asserts that only the owner or the principal manager of the store could revoke his privilege to enter. Thus the trial court allegedly erred in finding him guilty when the state failed to produce evidence that the principal store manager had revoked McKinney’s privilege to enter or to remain in the store. *But see Mariemont v. Wells*, 33 Ohio Misc.2d 9, 514 N.E.2d 764 (M.C.1986) (holding it unreasonable to construe the criminal-trespass statute to require that only the owner or lessee of a premises can give or deny permission to enter); *Columbus v. Parks*, 10th Dist. Franklin No. 10AP-574, 2011-Ohio-2164, ¶ 19 (holding that an agent of the owner may give notice to a patron that he is not permitted to be on the premises). He also asserts that the state failed to adduce any evidence that the principal manger had “legitimately” revoked McKinney’s privilege to enter and remain in the store. But nothing in the language of R.C. 2911.21 requires the state to prove an agent’s or owner’s basis or

motivation for revoking an individual's privilege to enter property. *See City of Cleveland v. Dickerson*, 8th Dist. Cuyahoga Nos. 101782 and 101783, 2016-Ohio-806, ¶ 26.

Thus the evidence presented at trial was such that reasonable minds could have concluded that McKinney had knowingly remained in the convenience store without privilege to do so. The on-duty manager testified, without objection, that McKinney was not permitted in the store. McKinney admitted that the on-duty manager had told him that the principal manager had revoked his privilege to enter. Yet McKinney remained on the property until arrested by the police.

Viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found beyond a reasonable doubt that McKinney had remained in the convenience store without privilege to do so. The conviction was sustained by sufficient evidence. The assignment of error is overruled.

Therefore, we affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**FISCHER, P.J., CUNNINGHAM and STAUTBERG, JJ.**

To the clerk:

Enter upon the journal of the court on July 15, 2016

per order of the court \_\_\_\_\_.  
Presiding Judge