

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

STATE OF OHIO,	:	APPEAL NO. C-160471
Plaintiff-Appellee,	:	TRIAL NO. C-15CRB-22858
vs.	:	<i>JUDGMENT ENTRY.</i>
JANELL D. COBBS,	:	
Defendant-Appellant.	:	

We consider this appeal 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.

After a bench trial, defendant-appellant Janell D. Cobbs was convicted of obstructing official business, in violation of R.C. 2921.31. In her sole assignment of error, she argues that her conviction was not supported by sufficient evidence and was against the manifest weight of the evidence.

The evidence at trial demonstrated that Cobbs was a passenger in a vehicle that the police had stopped to investigate “for a possible OVI” offense. Cobbs was belligerent during the encounter, and this belligerence increased when the driver was removed from the vehicle and placed into custody. Cobbs repeatedly refused to exit from the vehicle upon the justified and polite request of the officers, and she called 911 to stop the officers from proceeding. During this period of at least 15 minutes, the officers were delayed in their investigation and processing of the driver, and in completing their duties with respect to the towing of the vehicle, the contents of which had to be inventoried. The

police were forced to remove Cobb from the vehicle, and did so after taking extra precautions in light of her belligerence.

We first address Cobbs' argument that her conviction was not supported by sufficient evidence. When reviewing a claim of insufficient evidence, our "inquiry 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 proven beyond a reasonable doubt." *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus, following *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

The obstruction-of-official-business statute prohibits a person "without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official's official capacity," from doing "any act that hampers or impedes a public official in the performance of the public official's lawful duties." R.C. 2921.31.

Cobbs argues that the state failed to demonstrate the "affirmative act" element of the offense. "A person cannot be guilty of obstructing official business by doing nothing or failing to act." *State v. Wellman*, 173 Ohio App.3d 494, 2007-Ohio-2953, 879 N.E.2d 215, ¶ 10 (1st Dist.), cited in *State v. Grice*, 180 Ohio App.3d 700, 2009-Ohio-372, 906 N.E.2d 1203, ¶ 9 (1st Dist.).

Here, the state showed that Cobbs was belligerent during her interaction with the police, including calling 911 to interfere with her removal from the vehicle. The totality of her conduct was sufficient to establish the "affirmative act" element. *See Wellman* at ¶ 13.

Cobbs also contends there was no evidence she "hampered or impeded" the officers from doing their job. To meet this element, the evidence must demonstrate that the conduct at issue created some "substantial stoppage" of an officer's progress.

Wellman at ¶ 17, citing *State v. Stephens*, 57 Ohio App.2d 229, 230, 387 N.E.2d 252 (1st Dist.1978), cited in *Grice* at ¶ 12.

Cobbs argues that any delay she caused in the investigation of the OVI offense and the towing of the vehicle was not long enough to be considered substantial, and could have been avoided if the officers had acted differently, such as removing her from the vehicle at an earlier time. But our review of the evidence demonstrates a delay of a sufficient length, and an interference of the necessary quality, to meet the “substantial stoppage” standard. Ultimately, Cobbs’ belligerent conduct before her arrest hampered the officers’ investigation and processing of the driver, caused a delay in removing her from the vehicle, and impeded the inventorying of the vehicle for at least 15 minutes.

Upon our review of the record, we hold that Cobbs’ conviction was supported by sufficient evidence.

Cobbs argues also that her conviction was against the manifest weight of the evidence. But we find nothing in the record of the proceedings below to suggest that the trial court, in resolving the conflicts in the evidence adduced on the charged offense, lost its way or created such a manifest miscarriage of justice as to warrant the reversal of Cobbs’ conviction. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). We note that the weight to be given the evidence and the credibility of the witnesses are primarily for the trier of fact. *State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus.

Accordingly, we overrule the assignment of error, and 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.

CUNNINGHAM, P.J., MYERS and MILLER, JJ.

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on September 8, 2017
per order of the court _____.
Presiding Judge