

COURT OF APPEALS OF OHIO, SIXTH APPELLATE DISTRICT, ERIE
COUNTY

State v. Bowman

2020-Ohio-6974 (Ohio Ct. App. 2020) · No. E-19-016 · Decided December 30, 2020

SUMMARY

The Sixth District Court of Appeals of Ohio affirmed Ted Bowman's conviction under Ohio Revised Code section 4511.12 for disobeying a traffic control device while driving a semitruck in the left lane of the Ohio Turnpike. The court held that the appeal was not moot because the conviction resulted in points on Bowman's driving record, and it rejected his sufficiency, manifest-weight, selective-prosecution, and emergency-light arguments. The court also affirmed the denial of Bowman's motion for postconviction relief.

CASE DETAILS

COURT	Court of Appeals of Ohio, Sixth Appellate District, Erie County
WRITING FOR THE COURT	Arlene Singer, J.; Christine E. Mayle, J.; Gene A. Zmuda, P.J.
JURISDICTION	Ohio
DECIDED	December 30, 2020
DOCKET	E-19-016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bowman appealed his municipal-court conviction for violating Ohio Revised Code section 4511.12 and the denial of his motion for reconsideration and/or petition to vacate or set aside the conviction.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed to determine whether the evidence is legally sufficient to support the verdict as a matter of law. Manifest-weight review requires the appellate court to weigh the evidence and reasonable inferences, consider witness credibility, and determine whether the factfinder clearly lost its way. A selective-prosecution claim requires the defendant to make a prima facie showing that similarly situated persons generally were not prosecuted and that the discriminatory selection was invidious or in bad faith.
PRECEDENTIAL VALUE	published opinion
PARTIES	Ted Bowman v. State of Ohio/City of Vermilion

TOPICS

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QUESTIONS PRESENTED

1. Whether Bowman's conviction for violating Ohio Revised Code section 4511.12 was supported by sufficient evidence.
2. Whether the conviction was against the manifest weight of the evidence.
3. Whether the appeal was moot after Bowman paid the fine.
4. Whether the municipal court erred in denying Bowman's motion for reconsideration and/or petition for postconviction relief based on selective prosecution and the alleged improper marking of the trooper's vehicle.

HOLDINGS

1. The appeal was not moot because the assessment of points on Bowman's driving record constituted a collateral disability resulting from the conviction.
2. The conviction was supported by sufficient evidence because the state presented evidence establishing that Bowman disobeyed a traffic control device by driving a semitruck in the leftmost lane despite signs requiring trucks and slower traffic to use the right two lanes.
3. The conviction was not against the manifest weight of the evidence.
4. The trooper's display of red, blue, and white lights did not invalidate the stop because Ohio Revised Code section 4513.17(D) does not require public law-enforcement officers to use only blue and white lights.
5. Bowman failed to establish a prima facie selective-prosecution claim because he presented no evidence that he was singled out for prosecution or that the alleged discriminatory selection was invidious or undertaken in bad faith.

KEY QUOTATIONS

"The imposition of points on a traffic offender's driving records is a statutorily imposed penalty sufficient to create a collateral disability as a result of the judgment and preserves the justiciability of an appeal even if the offender has voluntarily satisfied the judgment." (§ 8)

"The section does not require public enforcement officers to have blue and white lights solely." (§ 15)

FACTUAL BACKGROUND

A highway patrol trooper stopped Ted Bowman while he was driving a semitruck in the far-left lane of the Ohio Turnpike. Signs on the turnpike required trucks, trailers, and slower traffic to use the right two lanes, and

Bowman was cited for violating Ohio Revised Code section 4511.12. Bowman challenged the stop because the trooper's vehicle displayed red, blue, and white lights, and later claimed selective or retaliatory prosecution. The evidence showed that Bowman was driving a semitruck in the restricted lane and that more than 20 other people had been charged under the same statute in the county during the preceding year.

PROCEDURAL HISTORY

A Vermilion Municipal Court bench trial resulted in Bowman's conviction for disobeying a traffic control device, and the court imposed a \$60 fine and costs. Bowman moved for reconsideration and/or postconviction relief, arguing selective or retaliatory prosecution and that the trooper's vehicle was improperly marked; the municipal court denied the motion. The Sixth District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Wilson, 41 Ohio St.2d 236, 325 N.E.2d 236 (1975)
- In re S.J.K., 114 Ohio St.3d 23, 2007-Ohio-2621, 867 N.E.2d 408
- State v. Crawford, 6th Dist. Lucas No. L-17-1296, 2019-Ohio-3123
- State v. Wilson, 113 Ohio St.3d 382, 2007-Ohio-2202, 865 N.E.2d 1264
- State v. Thompkins, 78 Ohio St.3d 380, 678 N.E.2d 541 (1997)
- State v. Jackson, 2019-Ohio-4206, 134 N.E.3d 233 (12th Dist.)
- Lyndhurst v. McGinness, 138 Ohio App.3d 617, 741 N.E.2d 976 (8th Dist. 2000)
- State v. LaMar, 95 Ohio St.3d 181, 2002-Ohio-2128, 767 N.E.2d 166
- State v. Getsy, 84 Ohio St.3d 180, 702 N.E.2d 866 (1998)
- State v. Flynt, 63 Ohio St.2d 132, 407 N.E.2d 15 (1980)