

**COURT OF APPEALS  
RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT**

<b>CITY OF MANSFIELD</b>	:	<b>JUDGES:</b>
	:	Hon. William B. Hoffman, P.J.
	:	Hon. W. Scott Gwin, J.
<b>Plaintiff-Appellee</b>	:	Hon. Julie A. Edwards, J.
	:	
<b>-vs-</b>	:	
	:	<b>Case No. 00CA61-2</b>
<b>BRUCE GIERHART</b>	:	
	:	
<b>Defendant-Appellant</b>	:	<b><u>OPINION</u></b>

**CHARACTER OF PROCEEDING:** Criminal appeal from the Mansfield Municipal Court, Case No. 00-CRB-01591-01

**JUDGMENT:** Affirmed

**DATE OF JUDGMENT ENTRY:** January 23, 2002

**APPEARANCES:**

**For Plaintiff-Appellee  
ROBERT L. KONSTAM  
City Law Director  
30 North Diamond Street  
Mansfield, OH 44902**

**For Defendant-Appellant  
ARTHUR FRAZIER  
1015 Euclid Avenue, Third Floor  
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*Gwin, J.*

Defendant Bruce Gierhart appeals a judgment of the Municipal Court of Mansfield, Richland County, Ohio, which convicted and sentenced him for one count of disorderly conduct in violation of Mansfield Ordinance Section 509.03 A. Appellant assigns two errors to the trial court:

**ASSIGNMENTS OF ERROR**

**THE EVIDENCE DID NOT SUPPORT DEFENDANT'S  
CONVICTION FOR DISORDERLY CONDUCT.**

**THE TRIAL COURT ERRED WHEN IT IMPOSED THE  
MAXIMUM SENTENCE FOR DISORDERLY CONDUCT.**

Appellant has not provided us with a transcript of proceedings, and the judgment entry of conviction simply finds appellant guilty on the evidence submitted. Appellant alleges in his brief, and the police report corroborates, that appellant was involved in an altercation which progressed from name calling to punches. Appellant suffered a broken nose.

I

In his first assignment of error, appellant argues the evidence presented by the State does not support the conviction.

Appellant's docketing statement indicates a full transcript was requested. The record contains a praecipe to the court reporter. Nevertheless, it appears the record was transmitted without a transcript of the trial. It is appellant's obligation to insure

the record contains all necessary documents.

Our standard of reviewing claims the evidence presented at trial was insufficient as a matter of law to support the conviction is to review the record and determine whether, as a matter of law, the evidence supports the conviction. This is contrasted with a review on the weight of the evidence, which concerns the amount of credible evidence offered in a trial to support one side of the issue, rather than the other, see *State v. Thompkins* (1997), 78 Ohio St. 3d 380.

Appellant urges the testimony of some of the witnesses differed regarding what occurred on the day in question. Without a transcript, this court cannot review this issue, and will accord the trial court the presumption of regularity in this bench trial.

The first assignment of error is overruled.

## II

In his second assignment of error, appellant urges once again, the court did not consider the mitigating factors appellant raised regarding whether the alleged victim initiated or provoked the incident. Again, without a transcript, appellant cannot demonstrate the error of which he complained.

The second assignment of error is overruled.

For the foregoing reasons, the judgment of the Municipal Court of Mansfield, Richland County, Ohio, is affirmed, and the cause is remanded to that court for execution of sentence.

By Gwin, J.,  
Hoffman, P.J., and  
Edwards, J., concur

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**JUDGES**

WSG:clw 0110

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

<b>CITY OF MANSFIELD</b>	:	
	:	
<b>Plaintiff-Appellee</b>	:	
	:	
<b>-vs-</b>	:	<b>JUDGMENT ENTRY</b>
	:	
<b>BRUCE GIERHART</b>	:	
	:	
<b>Defendant-Appellant</b>	:	<b>CASE NO. 00CA61-2</b>

For the reasons stated in the Memorandum-Opinion on file, the judgment of the Municipal Court of Mansfield, Richland County, Ohio, is affirmed, and the cause is remanded to that court for execution of sentence. Costs to appellant.

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JUDGES

[Cite as *Mansfield v. Gierhart*, 2002-Ohio-244.]

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

CITY OF MANSFIELD	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
	:	
BRUCE GIERHART	:	
	:	
Defendant-Appellant	:	CASE NO. 00CA61-2

Appellee's motion to dismiss the appeal is overruled on authority of  
*State v. Herzing* (1985), 18 Ohio St. 3d 337.

IT IS SO ORDERED.

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JUDGES