[Cite as *State v. Williams*, 2018-Ohio-3782.]

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO Plaintiff-Appellee -vs- ADRIAN L. WILLIAMS Defendant-Appellant	JUDGES: Hon. William B. Hoffman, P.J. Hon. Craig R. Baldwin, J. Hon. Earle E. Wise, Jr., J. Case No. CT2017-0093 O P I N I O N

CHARACTER OF PROCEEDING:	Appeal from the Muskingum County Common Pleas Court, Case No. CR2017-252
JUDGMENT:	Affirmed
DATE OF JUDGMENT ENTRY:	September 14, 2018

APPEARANCES:

For Plaintiff-Appellee	For Defendant-Appellant
D. MICHAEL HADDOX Prosecuting Attorney Muskingum County, Ohio By: GERALD V. ANDERSON II Assistant Prosecuting Attorney Muskingum County, Ohio 27 North Fifth St., P.O. Box 189 Zanesville, Ohio 43702-0189	ERIC J. ALLEN The Law Offices of Eric J. Allen, Ltd. 4605 Morse Rd., Suite 201 Gahanna, Ohio 43230

Hoffman, P.J.

{¶1} Appellant Adrian L. Williams appeals the judgment entered by the Muskingum County Common Pleas Court convicting him of two counts of felonious assault (R.C. 2903.11(A)(2)) with firearm specifications and two counts of having a weapon under disability (R.C. 2923.13(A)(2),(3)), and sentencing him to an aggregate term of incarceration of twenty years. Appellee is the state of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} During the early morning hours of June 24, 2017, a fight broke out at The Flames, a motorcycle club in Zanesville, Ohio. Bouncers turned the lights on in the club and began moving people outside to the parking lot. As people were leaving the club, Carlton "Dre" Ferrell assaulted Keith Haddock's girlfriend, which led to a fight in the parking lot between Ferrell and Haddock.

{¶3} As Ferrell and Haddock were fighting on the ground, Appellant pulled out a gun and began shooting at them. Appellant is friends with Ferrell, and went to the bar with him on the night in question. Ferrell's girlfriend, Eva Huffman, saw Appellant firing the gun from across the street, and said to Appellant, "What are you doing, that's Dre on the ground." Tr. 201. Appellant responded, "Fuck it," and fired two more shots. Tr. 202.

{¶4} Ferrell was shot. A group of people including Appellant and Ferrell fled the scene in Huffman's car. Ferrell did not seek medical treatment until four days later, when his gunshot wound became infected.

{¶5} Haddock heard shots and dove behind a dumpster. He heard someone say, "That mother-fucker's done." Tr. 248. His girlfriend got him up and drug him to his

car. He was not immediately aware he had been shot. Later he discovered he had been shot three times: once in the back, once in the buttock, and once in the thigh.

{¶6} Appellant was indicted by the Muskingum County Grand Jury on two counts of felonious assault with firearm specifications, two counts of having a weapon under disability, and one count of tampering with evidence with a firearm specification. The State nolled count five, tampering with evidence, and proceeded to trial on the remaining counts. Appellant waived his right to jury trial on the two counts of having a weapon under disability, and was found guilty by the court. Following jury trial, he was found guilty of both counts of felonious assault with the accompanying firearm specification. The trial court convicted him of all four counts along with the specifications, and sentenced him to an aggregate term of incarceration of twenty years.

{¶7} It is from the November 22, 2017 judgment of conviction and sentence Appellant prosecutes this appeal, assigning as error:

> "I. THE VERDICT IN THIS CASE IS AGAINST THE SUFFICIENCY OF THE EVIDENCE AND SHOULD BE REVERSED BECAUSE IT VIOLATES THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION, AND ARTICLE I, SECTION 10 OF THE CONSTITUTION OF THE STATE OF OHIO.
>
> "II. THE VERDICT IN THIS CASE IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND SHOULD BE REVERSED BECAUSE IT VIOLATES THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS

TO THE UNITED STATES CONSTITUTION, AND ARTICLE I, SECTION 10 OF THE CONSTITUTION OF THE STATE OF OHIO."

I., II.

{¶8} Appellant argues the convictions of felonious assault are against the manifest weight and sufficiency of the evidence.

{¶9} In determining whether a verdict is against the manifest weight of the evidence, the appellate court acts as a thirteenth juror and "in reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses, and determines whether in resolving conflicts in evidence the jury 'clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.'" *State v. Thompkins*, 78 Ohio St. 3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541, quoting *State v. Martin*, 20 Ohio App. 3d 172, 175, 485 N.E.2d 717 (1983).

{¶10} An appellate court's function when reviewing the sufficiency of the evidence is to determine 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, paragraph two of the syllabus (1991).

{¶11} We note the weight to be given to the evidence and the credibility of the witnesses are issues for the trier of fact. *State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967). The trier of fact "has the best opportunity to view the demeanor, attitude, and credibility of each witness, something that does not translate well on the written page." *Davis v. Flickinger*, 77 Ohio St.3d 415, 418, 674 N.E.2d 1159 (1997).

{¶12} Appellant was convicted of two counts of felonious assault in violation of R.C. 2903.11(A)(2), which provides no person shall knowingly "[c]ause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance."

{¶13} Appellant argues the testimony of the witnesses was not credible, as it was self-serving and contradictory, and there is no credible evidence identifying Appellant as the shooter. He further argues no one identified what the nickname "HB" means, or how it was connected to Appellant.

{¶14} Regardless of what the nickname "HB" meant, Appellant was identified in the courtroom as the person witnesses knew as HB. Eva Huffman identified Appellant in the courtroom as HB. Tr. 200, 226. When asked on cross-examination if HB stood for "handsy boss," she testified she did not know anything about that. Tr. 221. Stephney Ewert, who testified on behalf of the defense, testified she saw HB shooting a gun in the parking lot, and identified Appellant in the courtroom as HB. Tr. 365.

{¶15} Further, numerous witnesses for both the prosecution and the defense identified Appellant as the shooter. Eva Huffman testified she saw Appellant shooting at Dre Ferrell and Keith Haddock when they were fighting on the ground. Gene Taylor, who worked as a bouncer at The Flames, testified he saw Appellant shooting a gun. He did not know Appellant, but had seen him on other occasions at another bar in Zanesville. Stephney Ewert, a witness for Appellant, testified she saw Appellant shooting the gun, and she identified him in the courtroom as the shooter. Detective James Devoll, who was also a defense witness, testified Ewert selected Appellant's picture from a photo lineup three days after the incident. Further, Latasha Dungee, who Appellant now argues was

the only credible witness to testify at trial, testified she saw several men with guns in the bar on the night in question, and she also identified Appellant as one of the men she saw with a gun.

{¶16} The testimony of the witnesses, if believed by the jury, is sufficient to support a finding Appellant shot Ferrell and Haddock. We further find the jury did not lose its way in choosing to believe the testimony of the witnesses identifying Appellant as the shooter, as one of Appellant's own witnesses identified him as the shooter and another testified he had a gun.

{¶17} The assignments of error are overruled. The judgment of the Muskingum County Common Pleas Court is affirmed.

By: Hoffman, P.J.

Baldwin, J. and

Wise, Earle, J. concur

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