

[Cite as *State v. Baatin*, 2011-Ohio-6294.]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 11AP-286
Hakeem Baatin (aka Terrance Scott),	:	(C.P.C. No. 10CR-07-4435)
Defendant-Appellant.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on December 8, 2011

Ron O'Brien, Prosecuting Attorney, and *Sheryl L. Prichard*, for appellee.

Yeura R. Venters, Public Defender, and *David L. Strait*, for appellant.

APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶1} Defendant-appellant, Hakeem Baatin, aka Terrance Scott, appeals from a judgment of conviction and sentence entered by the Franklin County Court of Common Pleas. Because his convictions are supported by sufficient evidence and are not against the manifest weight of the evidence, we affirm that judgment.

Factual and Procedural Background

{¶2} The evening of July 19, 2010, Beverly Nash was walking to a friend's house in the Linden area of Columbus, Ohio. As she walked, three men approached her and

knocked her to the ground. The men picked her up and forced her into a nearby house. Once inside the house, a fight ensued, and one of the men stabbed Nash with a knife multiple times. Somehow, Nash was able to get out of the house and get help. Nash subsequently identified appellant as the man who stabbed her inside the house.

{¶3} As a result, a Franklin County Grand Jury indicted appellant with one count of attempted murder in violation of R.C. 2923.02 and R.C. 2903.02, one count of felonious assault in violation of R.C. 2903.11, one count of kidnapping in violation of R.C. 2905.01,¹ and one count of tampering with evidence in violation of R.C. 2921.12. Appellant entered a not guilty plea to those charges and proceeded to a jury trial.

{¶4} At trial, Nash testified to the version of events described above. Additionally, Larry Mann testified that appellant came to his apartment on the night of July 19, 2010 and admitted to him that he stabbed a woman because she had stolen something. (Tr. 50.) Appellant was wearing a bloody t-shirt and had a pair of scissors in his hands. Mann told him to put those items in a bag and get rid of them. Appellant put the items in the bag and threw them into a nearby sewer. With Mann's help, police later found a bag that contained a bloody t-shirt and scissors in the sewer. DNA from Nash and appellant were found on both items.

{¶5} The jury found appellant guilty of all charges and the trial court sentenced him accordingly.

{¶6} Appellant appeals and assigns the following error:

APPELLANT'S CONVICTIONS ARE NOT SUPPORTED BY
SUFFICIENT CREDIBLE EVIDENCE.

¹ Each of these counts contained a repeat violent offender specification pursuant to R.C. 2941.149.

Appellant's Assignment of Error - Sufficiency and Manifest Weight of the Evidence

{¶7} In his assignment of error, appellant contends that his convictions are not supported by sufficient evidence and are against the manifest weight of the evidence. We disagree.

{¶8} Although sufficiency and manifest weight are different legal concepts, manifest weight may subsume sufficiency in conducting the analysis; that is, a finding that a conviction is supported by the manifest weight of the evidence necessarily includes a finding of sufficiency. *State v. McCrary*, 10th Dist. No. 10AP-881, 2011-Ohio-3161, ¶11 (citing *State v. Braxton*, 10th Dist. No. 04AP-725, 2005-Ohio-2198, ¶15). Thus, a determination that a conviction is supported by the weight of the evidence will also be dispositive of the issue of sufficiency. *Id.* In that regard, we first examine whether appellant's convictions are supported by the manifest weight of the evidence. *Id.*; *State v. Sowell*, 10th Dist. No. 06AP-443, 2008-Ohio-3285, ¶89.

{¶9} The weight of the evidence concerns the inclination of the greater amount of credible evidence offered to support one side of the issue rather than the other. *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52. Although there may be sufficient evidence to support a judgment, a court may nevertheless conclude that a judgment is against the manifest weight of the evidence. *Id.*

{¶10} When presented with a challenge to the manifest weight of the evidence, an appellate court may not merely substitute its view for that of the trier of fact, but must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine whether in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the

conviction must be reversed and a new trial ordered. *Id.* at 387. An appellate court should reserve reversal of a conviction as being against the manifest weight of the evidence for only the most " 'exceptional case in which the evidence weighs heavily against the conviction.' " *Id.*; *State v. Strider-Williams*, 10th Dist. No. 10AP-334, 2010-Ohio-6179, ¶12.

{¶11} In addressing a manifest weight of the evidence argument, we are able to consider the credibility of the witnesses. *State v. Cattledge*, 10th Dist. No. 10AP-105, 2010-Ohio-4953, ¶6. However, in conducting our review, we are guided by the presumption that the jury, or the trial court in a bench trial, " 'is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.' " *Id.* (quoting *Seasons Coal Co. v. Cleveland* (1984), 10 Ohio St.3d 77, 80. Accordingly, we afford great deference to the jury's determination of witness credibility. *State v. Redman*, 10th Dist. No. 10AP-654, 2011-Ohio-1894, ¶26 (citing *State v. Jennings*, 10th Dist. No. 09AP-70, 2009-Ohio-6840, ¶55). See also *State v. DeHass* (1967), 10 Ohio St.2d 230, paragraph one of the syllabus (credibility determinations are primarily for the trier of fact).

{¶12} Appellant argues that his convictions are against the manifest weight of the evidence because Nash's testimony was fraught with inconsistencies and not reliable. He also argues that Mann's testimony is not credible because there is no way he would confess to a man he had only known for months. We disagree.

{¶13} A defendant is not entitled to a reversal on manifest weight grounds merely because inconsistent evidence was offered at trial. *State v. Campbell*, 10th Dist. No. 07AP-1001, 2008-Ohio-4831, ¶23. The trier of fact is in the best position to take into

account the inconsistencies in the evidence, as well as the demeanor and manner of the witnesses, and to determine which witnesses are more credible. *State v. DeJoy*, 10th Dist. No. 10AP-919, 2011-Ohio-2745, ¶27. While appellant correctly points to certain portions of Nash's testimony that were inconsistent with her prior description of the events she recounted to a detective, these inconsistencies do not render the conviction against the manifest weight of the evidence. The jury was aware of these factual inconsistencies and chose to believe Nash's consistent identification of appellant as the man who stabbed her. This is within the province of the jury. *State v. Conkel*, 10th Dist. No. 08AP-845, 2009-Ohio-2852, ¶17-18; *State v. Thompson*, 10th Dist. No. 08AP-22, 2008-Ohio-4551, ¶20-21.

{¶14} Appellant also argues that Mann's testimony is not credible because he would not confess to someone that he barely knew. We disagree. Mann testified that he knew appellant for nine or ten months. There was no testimony about the nature or quality of their relationship. While appellant's argument could be persuasive to a jury, it does not render Mann's testimony inherently unreliable and not worthy of belief. *State v. Stewart*, 10th Dist. No. 08AP-33, 2009-Ohio-1547, ¶24. More importantly, other evidence lends credibility to Mann's testimony. Mann testified that he told appellant to place the bloody scissors and t-shirt in a bag and get rid of them. Appellant did so, and left his house to dispose of the bag. Police later found a bag in a nearby sewer that contained these items. Mann testified that the bag found in the sewer was the bag that he gave to appellant that night. (Tr. 53.) DNA evidence also linked both appellant and Nash to the items contained in the bag.

{¶15} The jury did not lose its way or create a manifest miscarriage of justice. Accordingly, appellant's convictions are not against the manifest weight of the evidence. This conclusion is also dispositive of appellant's claim that his convictions are not supported by sufficient evidence. *McCrary* at ¶17. Accordingly, we overrule appellant's assignment of error.

{¶16} Having overruled appellant's assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

SADLER and DORRIAN, JJ., concur.
