

COURT OF APPEALS  
STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

ROBERT TYREE JENKINS

Defendant-Appellant

JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. Sheila G. Farmer, J.

Hon. Craig R. Baldwin, J.

Case No. 2014CA00106

## OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common  
Pleas, Case No. 2014CR0578

**JUDGMENT:**

Affirmed

DATE OF JUDGMENT:

March 23, 2015

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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*Farmer, J.*

{¶1} On May 7, 2014, the Stark County Grand Jury indicted appellant, Robert Tyree Jenkins, on one count of domestic violence in violation of R.C. 2919.25(A) and one count of intimidation of a witness in violation of R.C. 2921.04(A). Said charges arose from an incident wherein appellant struck his pregnant girlfriend, Jasmine Ferguson, in the head outside a CSE Credit Union.

{¶2} A jury trial commenced on June 5, 2014. The jury found appellant guilty of the domestic violence count and not guilty of the intimidation count. By judgment entry filed June 17, 2014, the trial court sentenced appellant to twelve months in prison.

{¶3} Appellant filed an appeal and this matter is now before this court for consideration. Assignment of error is as follows:

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{¶4} "APPELLANT'S CONVICTIONS WERE AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE."

I

{¶5} Appellant claims his convictions for domestic violence and witness intimidation were against the sufficiency and manifest weight of the evidence.<sup>1</sup> We disagree.

{¶6} On review for sufficiency, a reviewing court is to examine the evidence at trial to determine whether such evidence, if believed, would support a conviction. *State v. Jenks*, 61 Ohio St.3d 259 (1991). "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have

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<sup>1</sup> Appellant was not convicted of the intimidation count as he was found not guilty of the offense. See, Jury Verdict Form filed June 6, 2014.

found the essential elements of the crime proven beyond a reasonable doubt." *Jenks* at paragraph two of the syllabus, following *Jackson v. Virginia*, 443 U.S. 307 (1979). On review for manifest weight, a reviewing court is to examine 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 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. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983). See also, *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52. The granting of a new trial "should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction." *Martin* at 175.

{¶7} 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. Jamison*, 49 Ohio St.3d 182 (1990). 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, 1997-Ohio-260.

{¶8} Appellant was convicted of domestic violence in violation of R.C. 2919.25(A) which states: "No person shall knowingly cause or attempt to cause physical harm to a family or household member."

{¶9} A witness, Jeremiah Neice, was sitting in his car outside the CSE Credit Union when he heard a woman scream. T. at 87-88. He looked up and observed a man and a pregnant woman arguing and "grappling." T. at 88-89. The man held the woman in a "bear hug" and then let go. T. at 88. Mr. Neice looked down to obtain his cell phone and when he looked back up, he observed the man strike the woman in the

head with "a right hook from behind." *Id.* The man then "strolled off." T. at 90. Mr. Neice testified he could see the two individuals clearly and identified appellant as the man who struck the woman, Jasmine Ferguson. T. at 88-89.

{¶10} Ms. Ferguson testified appellant was her boyfriend and the father of her unborn child, and they lived together at the time of the offense. T. at 120-121. She testified on the day in question, she and appellant were arguing outside the CSE Credit Union and appellant struck her on the side of her face. T. at 124-126.

{¶11} Appellant testified and claimed he was not with Ms. Ferguson outside the CSE Credit Union on the day in question and did not strike her. T. at 144. Appellant claimed Mr. Neice was mistaken as to his observations. T. at 158.

{¶12} Appellant challenges Mr. Neice's credibility, arguing several discrepancies between his testimony and that of Ms. Ferguson e.g., whether Ms. Ferguson was actually in a "bear hug," whether appellant "grabbed" for cigarettes in Ms. Ferguson's bra, and whether Ms. Ferguson was carrying a small child in her arms or pushing the child in a stroller. Appellant argues the witnesses could not "agree on even the most basic facts as to how the alleged assault took place." Appellant's Brief at 5. Contrary to this assertion, both Mr. Neice and Ms. Ferguson agreed that appellant was the individual who struck Ms. Ferguson in the head. T. at 88-89, 123-126. The jury could have disregarded the non-relevant discrepancies and believed the witnesses' testimonies on appellant striking Ms. Ferguson and the identifications of appellant being the perpetrator.

{¶13} Upon review, we find sufficient, credible evidence to support the conviction for domestic violence, and find no manifest miscarriage of justice.

{¶14} The sole assignment of error is denied.

{¶15} The judgment of the Court of Common Pleas of Stark County, Ohio is hereby affirmed.

By Farmer, J.

Gwin, P.J. and

Baldwin, J. concur.

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