[Cite as *State v. Ruffin*, 2015-Ohio-1126.]

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

		JUDGES:
STATE OF OHIO	:	Hon. W. Scott Gwin, P.J.
	:	Hon. Sheila G. Farmer, J.
Plaintiff-Appellee	:	Hon. Craig R. Baldwin, J.
	:	
-vs-	:	
	:	Case No. 2014CA00126
ARTHUR J. RUFFIN, JR.	:	
	:	
Defendant-Appellant	:	O P I N I O N

CHARACTER OF PROCEEDING:	Criminal appeal from the Stark County Court of Common Pleas, Case No. 2014-CR-0538
JUDGMENT:	Affirmed
DATE OF JUDGMENT ENTRY:	March 23, 2015

APPEARANCES:

For Plaintiff-Appellee	For Defendant-Appellant
JOHN FERRERO Stark County Prosecutor BY: KATHLEEN TATARSKY 110 Central Plaza S., Ste. 510 Canton, Ohio 44702	PATRICK L. CUSMA 702 Courtyard Centre 116 Cleveland Avenue N.W. Canton, OH 44702

Gwin, P.J.

{¶1} Appellant Arthur Ruffin ["Ruffin"] appeals from his conviction and sentence after a jury trial in the Stark County Court of Common Pleas on one count of domestic violence, a violation of R.C. 2919.25(A), a felony of the third degree.[1]

Facts and Procedural History

{¶2} On March 29, 2014, at 5:05 p.m., Alliance Police Officer Christopher McCord was dispatched to 303 North Webb Street in Alliance. He found Daisy Lee Ruffin aka Daisy Rodriquez standing on the sidewalk crying. Her bra strap was broken; she had red marks on her neck and a bruise across her forehead. She was very distraught and told McCord that her husband, Arthur Ruffin, had beaten her up. Daisy was married to Ruffin for about a year. She lived on Webb Avenue in Alliance with Ruffin, her daughters, her son and her grandchildren.

{¶3} She took Officer McCord into the house and showed him where she received her injuries. Officer McCord observed a table in the living room overturned and a computer in the bedroom on the floor. Officer McCord noticed Daisy smelled of beer, both recent and metabolized. Officer McCord opined that she was under the influence of alcohol but not "obliterated."

{¶4} On Saturday, March 29, 2014, Daisy was home with Ruffin who was on house arrest and wearing an ankle bracelet monitored by the Oriana House. They were both drinking and started arguing. He started calling her names and spit on her. He started hitting her and she hit him too.

[1] Ruffin's charge was elevated to a third degree felony because he has at least two prior domestic violence convictions.

{¶5} They ended up in the kitchen fighting. Ruffin slapped her and threw beer on her. Her shirt and bra were ripped when he was grabbing her and hitting her. Daisy ran to the church and called the police. Ruffin left in Daisy's car.

{¶6} The next day, he returned to the Webb Avenue home, Daisy called the police, and he was arrested. From March 30 to May 31, 2014 while in the Stark County Jail, Ruffin made 73 calls to Daisy. The jury heard some of those calls.

{¶7} The previous Friday, another fight occurred between Daisy and Ruffin. Daisy went to the bar with a friend. Ruffin came up to the bar and told her she had two minutes to get home. When Daisy returned home, he ripped her dress off, choked her, kicked her and urinated on her. Daisy felt like she was dying." However, she did not call the police that night explaining, "[W]omen tolerate a lot from their men, and I just did it, just tolerated it." 1T. at 203-204.

{¶8} Later, Daisy wrote letters to the trial judge attempting to recant her original complaints to police because she loved her husband. At trial, Daisy admitted that the statements she made in her letters were untrue and that her original statements to the police were the truth.

{¶9} Before Ruffin took the stand, his counsel noted that he had advised Ruffin against testifying. Ruffin, however, insisted. The court inquired of Ruffin if he understood counsel's position and still intended to testify. Ruffin answered affirmatively.

{¶10} Ruffin testified that on the day of the incident he woke up not feeling well. He had already been to the hospital emergency room on March 26, 2014 with an inner ear infection. He called his electronic monitoring provider, Oriana House, to get permission to go the hospital. Daisy dropped him off and indicated she was going to go

buy some food and drinks. He asked her not to drink today because he needed her to take care of him. He testified that when Daisy drinks, they “really go through it,” she runs out, hits people and throws things. While he was outside grilling, he got a phone call that prompted Daisy to get angry as she suspected it was another woman.

{¶11} Daisy then got angry and wanted to see his phone and he refused. She began ranting and raving and "doing antics.” Ruffin testified he got on the house phone and Daisy started making accusations against him again about another woman. Daisy was "starting to feel liquor, you know.” Ruffin went downstairs to feed his dog. When he came back upstairs, Daisy was on the phone with the other woman. Ruffin testified, "this is when everything starts going all haywire and all berserk.” Daisy then started doing "all her antics" and he left the house.

{¶12} Ruffin further testified he got around her to leave by "sliding her out the door" while she was "hitting and beating" him all the way out the door. Ruffin stayed at his sister's and returned home in the morning. Daisy called and asked where he had been, if he had been with the other woman. Ruffin testified he had no knowledge that the police were looking for him for domestic violence.

{¶13} Ruffin admitted that he had committed domestic violence before "as a coward" and he pled guilty "as a man.” Ruffin testified, however, that the current incident with Daisy did not occur. Ruffin denied doing any of the things he was accused of, both on March 21, and March 29, 2014. Ruffin’s basic testimony claimed that Daisy was drunk, was mad at him about a woman named Julie, and got back at him by calling in these false charges.

{¶14} On cross-examination, Ruffin agreed that he talked to Daisy six times on March 30, 2014, the day after the incident. He recalls her saying he abused her, but pointed out that when she is drunk she also thinks he is part of a gang that sexually assaulted her in the past. Ruffin reiterated, "We go through hell when she drinks." He also denied drinking on the day of incident since he had been at the hospital earlier that morning and stated he would have had less than an hour to get drunk. Ruffin acknowledged he might have said things that he allegedly did to her on March 29, but again that she told the entire courtroom that she was still drunk on March 30 when the phone call(s) occurred. He further stated that at the beginning of every phone call to her, he would ask her if she had been drinking, because "[I]f the answer is yes, I don't want to talk."

{¶15} Ruffin, was charged by indictment with one count of domestic violence, a violation of R.C. 2919.25(A) and one count of disrupting public services, R.C. 2909.04 (A)(1), a felony of the fourth degree. After hearing the evidence and receiving instructions from the trial court, the jury returned with a verdict of guilty to the charge of domestic violence and not guilty to the charge of disrupting public service. Ruffin returned to the trial court for sentencing the next day and received a prison term of thirty-six months.

Assignments of Error

{¶16} Ruffin raises three assignments of error,

{¶17} "I. THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN NOT FURTHER INQUIRING IF THE ATTORNEY-CLIENT RELATIONSHIP WAS SO

BROKEN DOWN AS TO REQUIRE NEW COUNSEL TO BE APPOINTED FOR DEFENDANT.

{¶18} "II. THE EVIDENCE AGAINST APPELLANT WAS INSUFFICIENT TO SUSTAIN A CONVICTION FOR DOMESTIC VIOLENCE.

{¶19} "III. THE VERDICT AGAINST APPELLANT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

I.

{¶20} In his first assignment of error, Ruffin contends that the attorney-client relationship was irretrievably broken at the time the trial started and the court's colloquy was insufficient each time he expressed concern about his counsel.

{¶21} The right to competent counsel does not require that a criminal defendant develop and share a "meaningful relationship" with his attorney. *Morris v. Slappy*, 461 U.S. 1, 13, 103 S.Ct. 1610, 1617, 75 L.Ed.2d 610(1983); *State v. Blankenship*, 102 Ohio App.3d 534, 657 N.E.2d 559(12th Dist. 1995); *State v. Lindsay*, II, 5th Dist. Richland No. 2010-CA-0134, 2011-Ohio-4747, ¶34; *State v. Burroughs*, 5th Dist. Delaware No. 04CAC03018, 2004-Ohio-4769, ¶11.

{¶22} In the context of reviewing a claim by the defendant that the trial court abused its discretion by overruling the defendant's request to discharge court appointed counsel and to substitute new counsel for the defendant, the courts have taken the approach that the defendant must show a complete breakdown in communication in order to warrant a reversal of the trial court's decision. In *State v. Cowans*, 87 Ohio St.3d 68, 1999-Ohio-250, 717 N.E.2d 298(1999) the Court noted,

> "A lawyer has a duty to give the accused an honest appraisal of his case. * * * Counsel has a duty to be candid; he has no duty to be optimistic when the facts do not warrant optimism." *Brown v. United States* (C.A.D.C.1959), 264 F.2d 363, 369 (en banc), *quoted in McKee v. Harris* (C.A.2, 1981), 649 F.2d 927, 932. "'If the rule were otherwise, appointed counsel could be replaced for doing little more than giving their clients honest advice.'" *McKee*, 649 F.2d at 932, *quoting McKee v. Harris* (S.D.N.Y.1980), 485 F.Supp. 866, 869.

Cowans, 87 Ohio St.3d at 73, 1999-Ohio-250, 717 N.E.2d 298.

{¶23} In a similar vein, it has been held that hostility, tension, or personal conflicts between an attorney and a client that do not interfere with the preparation or presentation of a competent defense are insufficient to justify a change in appointed counsel. See *State v. Henness*, 79 Ohio St.3d 53, 65-66, 679 N.E.2d 686(1997). Furthermore, "[m]erely because appointed counsel's trial tactics or approach may vary from that which appellant views as prudent is not sufficient to warrant the substitution of counsel." *State v. Glasure*, 132 Ohio App.3d 227, 239, 724 N.E.2d 1165(7th Dist. 1999); *State v. Evans*, 153 Ohio App.3d 226, 2003-Ohio-3475, 792 N.E.2d 757, ¶31(7th Dist); *State v. Newland*, 4th Dist. Ross No. 02CA2666, 2003-Ohio-3230, ¶11.

{¶24} Ruffin first argues that he and his attorney disagreed about filing a "Criminal Rule 9 where I [Ruffin] wasn't served an indictment." 1T. at 5. Ruffin went on to inform the trial court "He [defense counsel] went to [sic.] as far as calling me an idiot and laughing at me." 1T. at 5-6. Counsel indicated that he researched the issue and concluded that there was no basis for filing a motion with the trial court. 1T. at 7-8.

{¶25} Ruffin next contends that he desired to call a witness, "I mean I have a witness that has valuable information as far as text messages from Ms. Ruffin the night of this [sic.] Incident suppose to be happening and threatening messages that relates to this case." 1T. at 24-25. After he testified, Ruffin once again broached the issue with the trial court,

> Your, Honor, I have a witness, Christopher Sengos, and my lawyer is refusing to put him on the stand with his valuable testimony here that can help my Defense. We haven't rested yet, and this man in on the witness list, and I had papers and transcripts right here. This is very important information for my defense.

2T. at 280.

{¶26} A defendant has no constitutional right to determine trial tactics and strategy of counsel. *State v. Cowans*, 87 Ohio St.3d 68, 72, 717 N.E.2d 298 (1999); *State v. Conway,* 108 Ohio St.3d 214, 2006-Ohio-791, 842 N.E.2d 996, ¶ 150; *State v. Donkers,* 170 Ohio App.3d 509, 2007-Ohio-1557, 867 N.E.2d 903,(11th Dist.), ¶183. Rather, decisions about viable defenses are the exclusive domain of defense counsel after consulting with the defendant. Id. When there is no demonstration that counsel failed to research the facts or the law or that counsel was ignorant of a crucial defense, a reviewing court defers to counsel's judgment in the matter. *State v. Clayton*, 62 Ohio St.2d 45, 49, 402 N.E.2d 1189(1980), *citing People v. Miller*, 7 Cal.3d 562, 573-574, 102 Cal.Rptr. 841, 498 P.2d 1089(1972); *State v. Wiley*, 10th Dist. Franklin No. 03AP-340, 2004- Ohio-1008, ¶ 21.

{¶27} Decisions regarding the calling of witnesses are within the purview of defense counsel's trial tactics. *State v. Coulter*, 75 Ohio App.3d 219, 230, 598 N.E.2d 1324(12th Dist. 1992). *State v. Williams*, 74 Ohio App.3d 686, 695, 600 N.E.2d 298(8th Dist. 1991). Additionally, a failure to subpoena witnesses for trial is not a substantial violation of defense counsel's essential duty so as to be ineffective assistance, absent a showing of prejudice. *Id. See also*, *State v. James*, 5th Dist. Stark No. 1997CA00075, 1998 WL 525551(Jan. 20, 1998); *State v. Woullard*, 2nd Dist. Greene No. 2003CA54, 2004-Ohio-3395, ¶ 65.

{¶28} In the case at bar, the conflict between Ruffin and his attorney stemmed primarily from counsel's failure to paint a rosy picture of Ruffin's chances for full exoneration at trial. Ruffin's statement to the trial court, that he did not believe defense counsel was representing him properly, did not establish good cause for appointment of new counsel. Further, because appellant failed to allege facts, which, if true, would require the appointment of new counsel, the trial court had no duty to inquire further into appellant's complaint. *State v. Carter*, 128 Ohio App.3d 419, 423, 715 N.E.2d 723(4th Dist. 1998). ("* * * [V]ague or general objections do not trigger the duty to investigate further.")

{¶29} Even assuming *arguendo* that defense counsel had obtained the evidence by which Daisy could be impeached, we do not believe that there is a reasonable probability that the outcome of the trial would have been different. Even if Daisy had been impeached, our review of the record indicates that there was sufficient evidence to support Ruffin's conviction.[2] In addition, debatable strategic and tactical decisions may

[2] Ruffin's second and third assignments of error address the sufficiency and the weight of the evidence.

not form the basis of a claim for ineffective assistance of counsel, even if a better strategy had been available. *See State v. Phillips*, 74 Ohio St.3d 72, 85, 656 N.E.2d 643(1995). The decision of Ruffin's trial attorney not to call Sengos was a strategic decision based upon the facts in the record before us on appeal.

{¶30} We find that although the trial court could have made a more in depth inquiry, the trial court conducted a sufficient inquiry on the record about complaints Ruffin had raised regarding his appointed counsel. We concur with the trial court that there were insufficient reasons to have counsel removed. Ruffin has failed to establish a breakdown in attorney-client relationship of such magnitude as to jeopardize his right to effective assistance of counsel. *State v. Coleman*, 37 Ohio St.3d 286, 292, 525 N.E.2d 782, 798–99(1988).

{¶31} Ruffin's first assignment of error is overruled.

II & III

{¶32} Ruffin's second and third assignments of error raise common and interrelated issues; therefore, we will address the arguments together.

{¶33} Ruffin's second assignment of error challenges the sufficiency of the evidence; his third assignment of error contends his convictions are against the manifest weight of the evidence produced by the state at trial.

{¶34} Our review of the constitutional sufficiency of evidence to support a criminal conviction is governed by *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), which requires a court of appeals to determine whether "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable

doubt." Id.; see also *McDaniel v. Brown*, 558 U.S. 120, 130 S.Ct. 665, 673, 175 L.Ed.2d 582(2010) (reaffirming this standard); *State v. Fry*, 125 Ohio St.3d 163, 926 N.E.2d 1239, 2010–Ohio–1017, ¶146; *State v. Clay*, 187 Ohio App.3d 633, 933 N.E.2d 296, 2010–Ohio–2720, ¶68.

{¶35} Weight of the evidence addresses the evidence's effect of inducing belief. *State v. Thompkins*, 78 Ohio St.3d 380, 386-387, 678 N.E.2d 541 (1997), *superseded by constitutional amendment on other grounds as stated by State v. Smith,* 80 Ohio St.3d 89, 684 N.E.2d 668, 1997-Ohio–355. Weight of the evidence concerns "the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find the greater amount of credible evidence sustains the issue, which is to be established before them. Weight is not a question of mathematics, but depends on its effect in inducing belief." (Emphasis sic.) Id. at 387, 678 N.E.2d 541, quoting Black's Law Dictionary (6th Ed. 1990) at 1594.

{¶36} When a court of appeals reverses a judgment of a trial court on the basis that the verdict is against the weight of the evidence, the appellate court sits as a "'thirteenth juror'" and disagrees with the fact finder's resolution of the conflicting testimony. Id. at 387, 678 N.E.2d 541, quoting *Tibbs v. Florida*, 457 U.S. 31, 42, 102 S.Ct. 2211, 72 L.Ed.2d 652 (1982). However, an appellate court may not merely substitute its view for that of the jury, but must find that "'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*, supra, 78 Ohio St.3d at 387, quoting *State v.*

Martin, 20 Ohio App.3d 172, 175, 485 N.E.2d 717, 720–721 (1st Dist. 1983). Accordingly, reversal on manifest weight grounds is reserved for "'the exceptional case in which the evidence weighs heavily against the conviction.'" Id.

> "[I]n determining whether the judgment below is manifestly against the weight of the evidence, every reasonable intendment and every reasonable presumption must be made in favor of the judgment and the finding of facts.
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> * * *
>
> "If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment."

Seasons Coal Co., Inc. v. Cleveland, 10 Ohio St.3d 77, 80, 461 N.E.2d 1273 (1984), fn. 3, quoting 5 Ohio Jurisprudence 3d, Appellate Review, Section 60, at 191–192 (1978).

{¶37} To find Ruffin guilty of domestic violence the trier of fact would have to find beyond a reasonable doubt that he knowingly caused or attempted to cause physical harm to a family or household member. R.C. 2919.25(A). Physical harm to persons is defined as "any injury, illness, or other physiological impairment, regardless of its gravity or duration." "Family or household member" includes "A spouse, a person living as a spouse, or a former spouse of the offender" R.C. 2919.25(F)(1)(a)(i). A "person living as a spouse" includes "a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise

has cohabited with the offender within five years prior to the date of the alleged commission of the act in question." R.C. 2919.25(F)(2).

{¶38} Ruffin does not dispute that at all relevant times Daisy was his wife. Ruffin also agrees that he and Daisy were living together at all relevant times.

{¶39} The state presented the testimony of Officer McCord who described the injuries he observed on Daisy and the signs of a struggle he observed in the home. The jury viewed photos of the bruises on Daisy and the jury heard the telephone calls between Daisy and Ruffin in which she discussed her injuries and her claim that he beat her.

{¶40} Daisy testified that she ended up on the floor and a table ended up on her face. (1T. at 197). She further testified that Ruffin slapped her in the face and threw a beer on her. (1T. at 197). Daisy further testified that Ruffin threatened to kill her if she called the police. (1T. at 205). Daisy testified that she tried to save Ruffin by attempting to recant her statements to the police. (1T. at 220).

{¶41} Viewing the evidence in a light most favorable to the prosecution, we conclude that a reasonable person could have found beyond a reasonable doubt that Ruffin committed the crime of domestic violence. We hold, therefore, that the state met its burden of production regarding each element of the crime of domestic violence and, accordingly, there was sufficient evidence to submit the charge to the jury and to support Ruffin's conviction.

{¶42} Ultimately, "the reviewing court must determine whether the appellant or the appellee provided the more believable evidence, but must not completely substitute its judgment for that of the original trier of fact 'unless it is patently apparent that the fact

finder lost its way.'" *State v. Pallai,* 7th Dist. Mahoning No. 07 MA 198, 2008-Ohio-6635, ¶31, *quoting State v. Woullard,* 158 Ohio App.3d 31, 2004-Ohio-3395, 813 N.E.2d 964 (2nd Dist. 2004), ¶ 81. In other words, "[w]hen there exist two fairly reasonable views of the evidence or two conflicting versions of events, neither of which is unbelievable, it is not our province to choose which one we believe." *State v. Dyke,* 7th Dist. Mahoning No. 99 CA 149, 2002-Ohio-1152, at ¶ 13, *citing State v. Gore*, 131 Ohio App.3d 197, 201, 722 N.E.2d 125(7th Dist. 1999).

{¶43} 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), paragraph one of the syllabus; *State v. Hunter*, 131 Ohio St.3d 67, 2011-Ohio-6524, 960 N.E.2d 955, ¶118. *Accord, Glasser v. United States*, 315 U.S. 60, 80, 62 S.Ct. 457, 86 L.Ed. 680 (1942); *Marshall v. Lonberger*, 459 U.S. 422, 434, 103 S.Ct. 843, 74 L.Ed.2d 646 (1983).

{¶44} The jury as the trier of fact was free to accept or reject any and all of the evidence offered by the parties and assess the witness's credibility. "While the jury may take note of the inconsistencies and resolve or discount them accordingly * * * such inconsistencies do not render defendant's conviction against the manifest weight or sufficiency of the evidence". *State v. Craig*, 10th Dist. Franklin No. 99AP-739, 1999 WL 29752 (Mar 23, 2000) *citing State v. Nivens*, 10th Dist. Franklin No. 95APA09-1236, 1996 WL 284714 (May 28, 1996). Indeed, the jury need not believe all of a witness' testimony, but may accept only portions of it as true. *State v. Raver,* 10th Dist. Franklin No. 02AP-604, 2003-Ohio-958, ¶21, *citing State v. Antill*, 176 Ohio St. 61, 67, 197 N.E.2d 548 (1964); *State v. Burke,* 10th Dist. Franklin No. 02AP-1238, 2003-Ohio-2889,

citing State v. Caldwell, 79 Ohio App.3d 667, 607 N.E.2d 1096 (4th Dist. 1992). Although the evidence may have been circumstantial, we note that circumstantial evidence has the same probative value as direct evidence. *State v. Jenks*, supra.

In *Cross v. Ledford,* 161 Ohio St. 469, 477, 120 N.E. 2d 118 (1954), the Supreme Court further cautioned,

> The mere number of witnesses, who may support a claim of one or the other of the parties to an action, is not to be taken as a basis for resolving disputed facts. The degree of proof required is determined by the impression which the testimony of the witnesses makes upon the trier of facts, and the character of the testimony itself. Credibility, intelligence, freedom from bias or prejudice, opportunity to be informed, the disposition to tell the truth or otherwise, and the probability or improbability of the statements made, are all tests of testimonial value. *Where the evidence is in conflict, the trier of facts may determine what should be accepted as the truth and what should be rejected as false*. See *Rice v. City of Cleveland*, 114 Ohio St. 299, 58 N.E.2d 768.

161 Ohio St. at 477-478. (Emphasis added).

> A fundamental premise of our criminal trial system is that "the jury is the lie detector." *United States v. Barnard,* 490 F.2d 907, 912 (9th Cir. 1973) (emphasis added), cert. denied, 416 U.S. 959, 94 S.Ct. 1976, 40 L.Ed.2d 310 (1974). Determining the weight and credibility of witness testimony, therefore, has long been held to be the "part of every case [that] belongs to the jury, who are presumed to be fitted for it by their

> natural intelligence and their practical knowledge of men and the ways of men." *Aetna Life Ins. Co. v. Ward,* 140 U.S. 76, 88, 11 S.Ct. 720, 724-725, 35 L.Ed. 371 (1891).

United States v. Scheffer (1997), 523 U.S. 303, 313, 118 S.Ct. 1261, 1266-1267(1997).

{¶45} We find that this is not an "'exceptional case in which the evidence weighs heavily against the conviction.'" *Thompkins,* 78 Ohio St.3d at 387, 678 N.E.2d 541, *quoting Martin*, 20 Ohio App.3d at 175, 485 N.E.2d 717. The jury neither lost their way nor created a miscarriage of justice in convicting Ruffin of the charges.

{¶46} Based upon the foregoing and the entire record in this matter, we find Ruffin's conviction was not against the sufficiency or the manifest weight of the evidence. To the contrary, the jury appears to have fairly and impartially decided the matters before them. The jury as a trier of fact can reach different conclusions concerning the credibility of the testimony of the witnesses. This court will not disturb the jury's finding so long as competent evidence was present to support it. *State v. Walker*, 55 Ohio St.2d 208, 378 N.E.2d 1049 (1978). The jury heard the witnesses, evaluated the evidence, and was convinced of Ruffin's guilt.

{¶47} Finally, upon careful consideration of the record in its entirety, we find that there is substantial evidence presented which if believed, proves all the elements of domestic violence as charged in the Indictment beyond a reasonable doubt.

{¶48} Ruffin's second and third assignments of error are overruled.

{¶49} The judgment of the Stark County Court of Common Pleas is affirmed.

By Gwin, P.J.,

Farmer, J., and

Baldwin, J., concur