

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

City of Toledo

Court of Appeals No. L-13-1199

Appellee

Trial Court No. CRB-13-04342

v.

Michael E. Aldrich

DECISION AND JUDGMENT

Appellant

Decided: June 20, 2014

* * * * *

David Toska, City of Toledo Chief Prosecutor, and Christopher D. Lawrence, Assistant Prosecutor, for appellee.

Tim A. Dugan, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a July 17, 2013 judgment of the Toledo Municipal Court, which found appellant guilty of one count of domestic violence, in violation of Toledo Municipal Code 537.19(A), and one count of assault, in violation of Toledo Municipal Code 537.03(A), both misdemeanors of the first degree. On August 14, 2013,

appellant was sentenced to 180 days of incarceration, with 150 days suspended and the balance of 30 days ordered to be served on electronic monitoring. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Michael Aldrich, sets forth the following assignment of error:

1. Appellant's conviction fell against the manifest weight of the evidence.

{¶ 3} The following undisputed facts are relevant to this appeal. In March of 2013, appellant was residing with his girlfriend in Toledo. The parties had been cohabitating for approximately three years and were engaged to be married. Their relationship gradually became strained.

{¶ 4} On March 5, 2013, appellant's girlfriend observed appellant "playing footsie" with one of the couple's mutual friends in their home. She confronted and questioned appellant about what she had observed. This verbal exchange annoyed appellant and led to friction between the parties. Subsequently, appellant left the home in order to work the night shift at his place of employment.

{¶ 5} While appellant was at work that night, he and his girlfriend engaged in a number of telephone conversations regarding their earlier dispute. The telephone exchanges became increasingly heated. When appellant arrived home, the arguing between the parties continued. Appellant charged forward and head-butted his girlfriend in the forehead.

{¶ 6} Appellant's girlfriend later took refuge at a nearby gas station. She called 9-1-1 from the gas station but was placed on hold. The victim then called her father who drove to the gas station to pick up his daughter. Upon arriving at the gas station, her father observed that she had markings and discoloration on her forehead.

{¶ 7} On March 18, 2013, appellant was charged with one count of domestic violence, in violation of Toledo Municipal Code 537.19, and one count of assault, in violation of Toledo Municipal Code 537.03, both misdemeanors of the first degree. On July 11, 2013, the matter proceeded to a bench trial. Appellant was found guilty of both charges. The allied offenses of similar import were merged for sentencing purposes and appellant was sentenced to 180 days incarceration, with 150 days suspended and the balance of 30 days ordered to be served on electronic monitoring. This appeal ensued.

{¶ 8} In the sole assignment of error, appellant contends that his conviction was against the manifest weight of the evidence. In support, appellant essentially challenges the victim's course of action on the night of the incident. For example, appellant notes that the victim did not flee the home for approximately one hour after the original incident. Appellant summarily concludes, "This does not make logical sense.

Aggravating tempers further than they already are by yelling at each other does not seem like a reasonable method of diffusing a situation." Notably, appellant simultaneously concedes that the victim explained during the course of this case that domestic violence hotline personnel had previously advised her that she should not leave the home until she

felt she was safe to do so. It is further asserted by appellant that he, “never stopped her [the victim] from leaving.” We are not persuaded.

{¶ 9} It is well-established that in determining whether a verdict is against the manifest weight of the evidence, the appellate court weighs the evidence, all reasonable inferences, and considers witness credibility. *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). The court then determines whether in resolving conflicts in the evidence, the factfinder clearly lost its way so as to cause a manifest miscarriage of justice necessitating a reversal and a new trial. *Id.* at 386.

{¶ 10} Toledo Municipal Code 537.19(A), domestic violence, establishes in pertinent part, “No person shall knowingly cause or attempt to cause physical harm to a family or household member.”

{¶ 11} Toledo Municipal Code 537.03(A), assault, establishes in pertinent part, “No person shall knowingly cause or attempt to cause physical harm to another.”

{¶ 12} The record reflects that the trial court heard the testimony of the victim clearly delineating the events and arguments of the day of the incident which escalated into appellant yelling an array of disparaging vulgarities at his girlfriend, charging at her, and head-butting her in her forehead. The record reflects that the victim’s father subsequently and consistently observed marks and discoloration on his daughter’s forehead when he picked her up shortly after the incident.

{¶ 13} Conversely, the record reflects that while appellant likewise conveys that heated verbal exchanges occurred and that he and his girlfriend have broken up and

reconciled a number of times over the years, he denies physically assaulting her on the day of the incident.

{¶ 14} In comparing the thorough testimony of the victim, collaborated in relevant part by her father who observed his daughter shortly after the events, versus appellant's self-serving and unsupported denial, we cannot say that the factfinder lost its way so as to cause a manifest miscarriage of justice in this case. Wherefore, we find appellant's sole assignment of error not well-taken.

{¶ 15} On consideration whereof, the judgment of the Toledo Municipal Court is hereby affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See also 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

James D. Jensen, J.

CONCUR.

JUDGE

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