

[Cite as *State v. Holloway*, 2015-Ohio-1015.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101289

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

DARNELL HOLLOWAY

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-13-577833-B

BEFORE: Kilbane, J., Celebrezze, A.J., and Keough, J.

RELEASED AND JOURNALIZED: March 19, 2015

ATTORNEY FOR APPELLANT

Thomas A. Rein
Leader Building, Suite 940
526 Superior Avenue
Cleveland, Ohio 44114

ATTORNEYS FOR APPELLEE

Timothy J. McGinty
Cuyahoga County Prosecutor
Brent C. Kirvel
Assistant County Prosecutor
The Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

MARY EILEEN KILBANE, J.:

{¶1} Defendant-appellant, Darnell Holloway (“Holloway”), appeals his convictions for aggravated murder, murder, felonious assault, discharge of a firearm on or near prohibited premises, and having a weapon while under disability. For the reasons that follow, we affirm.

{¶2} In September 2013, Holloway and codefendant Jamal Malone (“Malone”) were charged in a six-count indictment for the death of Kishaun Stratford (“Stratford”).¹ Count 1 charged them with aggravated murder. Count 2 charged them with murder. Count 3 charged them with felonious assault. Count 4 charged them with kidnapping. Count 5 charged them with discharge of a firearm on or near prohibited premises.² Count 6 charged Holloway with having a weapon while under disability. Count 7 charged Malone with having a weapon while under disability. On February 24, 2014, the matter proceeded to a joint jury trial, at which the following evidence was adduced.³

{¶3} In the evening hours of July 2, 2012, Stratford was shot and killed near his apartment located at 6110 Denison Avenue in Cleveland, Ohio. Through their investigation, Cleveland police learned that Malone and Holloway were involved in Stratford’s death. Malone desired to kill Stratford because of an incident that occurred during the late evening hours of June 30, 2012, at a house on W. 31st Street owned by Stratford’s cousins, Harold Moore (“Moore”) and Martez Robertson (“Robertson”). Stratford and others would record rap music in Moore’s homemade studio. While sitting on the front porch of Moore and Martez’s house, waiting to use Moore’s studio, Malone was robbed by two assailants. One of the assailants tried to disguise his

¹At the time of this opinion, codefendant Malone had an appeal pending with this court in *State v. Malone*, 8th Dist. Cuyahoga No. 101305.

²Counts 1-5 each carried one- and three-year firearm specifications.

³Each having a weapon while under disability charge was tried to the bench.

voice, which led Malone to believe this assailant was Stratford.

{¶4} Asa Prude (“Prude”), Malone’s cousin, was on his way to Moore’s studio when Malone was robbed. Prude was also a longtime friend of Stratford. When he arrived at Moore’s house, he observed Malone sitting on the porch with a towel covering his mouth. Malone was bleeding and a tooth was knocked out of his mouth. Malone asked Prude to call “Chill” a.k.a. David Cousin (“Cousin”) and ask him if he has seen Stratford because Malone wanted to finish working on a song together. Cousin gave Stratford’s number to Prude, and approximately five minutes later, Malone called Cousin asking if he had seen Stratford because Malone was trying to record a track with him. Cousin testified that he thought that both calls were “odd,” given that he never observed Malone and Stratford record together.

{¶5} Then, at approximately 6:30 p.m. on July 2, 2012, Stratford left the apartment he shared with his girlfriend, Amada Gamez (“Gamez”), and rode his bicycle to his cousins’ house on W. 31st Street.⁴ After spending about 30 minutes in Moore’s studio, Stratford rode his bike back to his apartment on Denison Avenue. On his way back home, Stratford decided to stop at the corner gas station to purchase a cigar.

{¶6} While riding to get the cigar, Stratford called Cousin at approximately 7:35 p.m. Stratford noticed a car parked on the street near Partner’s Pub, a bar located across from Stratford’s apartment. While talking to Cousin on the phone, he stated, “Is that Mal?” “Mal” and “Hot Mal” are Malone’s nicknames. He told Cousin that he would call him back and ended their call. Surveillance video from Partner’s Pub, which was played for the jury, depicts Stratford riding his bicycle up to a white Chevy Impala, later determined to be Malone’s car. He parked his bicycle and approached the driver, later determined to be Malone. While Stratford

spoke with Malone, the video depicts a man, later identified by Prude as Holloway, walking along the sidewalk. Holloway made an abrupt turn, runs up behind Stratford and fires his gun. Stratford is hit by two bullets, one in the lower back and one in the buttock. Holloway then jumped into the passenger side of the car and Malone drives away from the scene. After being shot, Stratford stumbled and fell onto a tree lawn on W. 62nd Street.

{¶7} Richard Nesmith (“Nesmith”), a resident in the area, was in his driveway washing his car when he observed an argument between a young black man on a bicycle, later determined to be Stratford, and people inside of a white car. He did not pay much attention to this argument because it was near a local bar, and it was normal to hear arguing. He first heard what he thought were fireworks and then heard a woman screaming. He ran to the end of driveway and observed the white car, later determined to be Malone’s Chevy Impala, as it sped away and saw Stratford stumble across the street and fall against a wall. When he ran up to Stratford, Barbara Lydston (“Lydston”), Stratford’s neighbor, was already on scene. Nesmith knows Lydston from the local neighborhood bar. Nesmith held Stratford’s head up, and told him he was “going to be all right.” He testified that Stratford was in shock. He was bleeding, his eyes were glazed, and he could barely speak.

{¶8} Lydston testified that she was outside her apartment when she heard gunshots. She then ran across the street and found Stratford lying face down with bullet holes in his back and buttocks. Barbara, a home health care provider, attempted to assist Stratford by taking the t-shirt from Stratford’s shorts pocket and using it to apply pressure to the gunshot wounds. Lydston described Stratford as in shock, he could not believe he was shot. He was losing blood and was barely breathing. He could not move his head and was mumbling. Lydston asked him,

⁴Gamez is also the mother of his daughter.

“who did this?” Stratford responded by repeatedly saying “Mal” (Malone’s nickname.) After naming “Mal,” Stratford lost consciousness and Lydston began administering CPR.

{¶9} Gamez also arrived on the scene. Gamez was home at the time of the shooting and heard the gunshots at the same time as Nesmith and Lydston, but she initially thought it was fireworks. Gamez’s neighbor informed her that Stratford had been shot, and Gamez rushed over to find Lydston administering CPR to Stratford.

{¶10} Paramedics and Cleveland police officers arrived on the scene. The paramedics transported Stratford to MetroHealth where he was pronounced dead. Officers on the scene learned that a white or gray, early 2000 model Chevy Impala was used in the murder. Homicide Detective Ignatius Sowa (“Sowa”), a 33-year veteran of the Cleveland Police Department, investigated the matter. He interviewed numerous witnesses, including Lydston, who mentioned someone named “Mal” as a suspect. He also interviewed Cousin, Robertson, and Moore, all who mentioned “Mal” and another man named “Aces” as suspects. Sowa later learned that “Mal” was Malone and “Aces” was Prude. Sowa also learned that a 2002 white Chevy Impala was registered to Malone.

{¶11} Sowa continued to investigate Stratford’s murder through the summer and early fall of 2012, focusing on locating Malone, Prude, and the Chevy Impala. In October 2012, Sowa discovered that the title to that Impala had been transferred to Jontay Noles (“Noles”). Sowa contacted Noles and advised her that her car was the subject of a murder investigation. After obtaining consent from Noles, police searched the car and determined that there was a defect on the driver’s side door consistent with it being hit by a bullet. The police also determined that the driver’s side interior panel had been previously removed and reattached and the plastic foam beneath the previously removed interior panel had been disrupted.

{¶12} In November 2012, Malone was arrested on unrelated charges. When arrested, police discovered five different prescription pill bottles, with all five prescriptions made out to Holloway. Holloway was later arrested on unrelated charges in January 2013.

{¶13} The next major step in the investigation took place in December 2012, when Sowa reinterviewed Robertson and showed him the surveillance video. Robertson identified the car in the video as Malone's white Chevy Impala, however he was unable to identify the shooter.

{¶14} The investigation then stagnated until May 2013, when two key developments occurred. First, police located and interviewed Prude, who agreed to cooperate in exchange for consideration from the prosecutor's office. Prude was interviewed by detectives in May 2013 and again in June 2013. During these interviews, Prude was shown the surveillance videos by a detective, who served as a blind administrator. While watching the videos, Prude identified Stratford as the victim, Holloway as the shooter, and Malone's Chevy Impala as the car used in the murder.

{¶15} Second, John Young ("Young") became Holloway's cellmate in Cuyahoga County Jail. After Holloway learned that he was being investigated in connection with a murder following Prude's viewing of the surveillance tape, Holloway discussed the murder with Young. Young testified that Holloway told him that the murder occurred on the west side around Denison Avenue, a guy named "Hot Mal" had hired someone to shoot Stratford because Stratford had robbed "Hot Mal."

{¶16} In June 2013, Sowa interviewed Holloway as a suspect in Stratford's murder. During this interview, Holloway repeatedly told Sowa that he did not know Malone, despite the fact that Malone and Holloway are cousins and Holloway's prescriptions were found on Malone when he was arrested in November 2012. Following the interview with Sowa, Holloway

became more concerned about being implicated in Stratford's murder and admitted to Young that he was the person who shot Stratford in exchange for \$3,500 and a pound of marijuana.

{¶17} Young was not the only person that Holloway confided to while in the Cuyahoga County Jail. Rodell Smith ("Smith") was placed in Holloway's pod in June 2013. Holloway was friends with Smith's brother. Holloway began discussing with Smith details of a murder case he was concerned about. Holloway told Smith that he was present for the murder and that a car was involved in the murder. Smith testified that he witnessed a conversation between Holloway and Malone.

{¶18} In July 2013, an Assistant Cuyahoga County Prosecutor received letters from both Young and Smith.⁵ Both letters contained details regarding Holloway's involvement in Stratford's murder. Young and Smith testified they knew to write to this prosecutor because Holloway showed them paperwork relating to a search warrant that was executed on Holloway while in jail. Young and Smith both asked for assistance in their respective cases in exchange for testifying against Holloway. The prosecutor granted their requests, and both Young and Smith received plea agreements for lesser charges in their respective cases.

{¶19} At the conclusion of the state's case, the trial court granted Holloway's Crim.R. 29 motion only with respect to Count 4 — kidnapping. At the conclusion of trial, the jury found both Holloway and Malone guilty of the remaining counts, which were Count 1 — aggravated murder, Count 2 — murder, Count 3 — felonious assault, and Count 5 — discharge of firearm on or near prohibited premises. The trial court found Holloway guilty of Count 6 — having a weapon while under disability and found Malone guilty of Count 7 — having a weapon while

⁵The assistant prosecutor who received these letters is the same prosecutor who presided over Holloway's trial.

under disability. The matter was set for sentencing on April 10, 2014. At sentencing, the trial court merged the aggravated murder, murder, felonious assault, and discharge of firearm near prohibited premises charges. The court also merged the one-year firearm specification with the three-year firearm specification on all counts. The state elected to proceed to sentencing on Count 1 — aggravated murder. The trial court sentenced Holloway to life in prison, with parole eligibility after 30 years, and sentenced Holloway to three years in prison on the firearm specification to be served prior to and consecutive with the life sentence. The trial court also imposed a 12-month sentence for the charge of having a weapon while under disability, to be served concurrently with the life sentence.

{¶20} Holloway now appeals, raising the following four assignments of error for review, which shall be discussed together where appropriate.

Assignment of Error One

[Holloway] was denied his right to a fair trial as guaranteed by Section 10, Article 1, of the Ohio Constitution and the Sixth and Fourteenth Amendments to the United States Constitution when the court failed to order separate trials for him and [Malone (his codefendant)].

Assignment of Error Two

[Holloway] was denied his right to a fair trial as guaranteed by Section 10, Article 1, of the Ohio Constitution and the Sixth and Fourteenth Amendments to the United States Constitution when the court failed to order separate trials and permitted statements attributed to [Malone,] which implicated [Holloway] in violation of [*Bruton v. United States*, 391 U.S. 123, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968)] and [*State v. Moritz*, 63 Ohio St.2d 150, 407 N.E.2d 1268 (1980).]

Assignment of Error Three

The trial court erred in denying [Holloway's] motion for acquittal as to the charges when the State failed to present sufficient evidence to sustain a conviction.

Assignment of Error Four

[Holloway's] convictions are against the manifest weight of the evidence.

Joinder of Trial

{¶21} In the first assignment of error, Holloway argues that the trial court erred when it joined his trial with Malone's trial. Specifically, he argues his defense and Malone's defense were antagonistic because the state's theory was that Malone killed Stratford as revenge for an earlier attack and mugging where Malone was the victim. Since Holloway was not a victim to the mugging, he contends that any defense that he was not at the scene and had no involvement in this homicide, would be detrimental because of his ties to Malone.

{¶22} We note that it is well established that the law and public policy generally favor the joinder of charges and defendants, which involve the same acts, transactions, or course of criminal conduct. Crim.R. 8; *State v. Dunkins*, 10 Ohio App.3d 72, 460 N.E.2d 688 (9th Dist.1983), syllabus. This court has stated that joinder of defendants and the avoidance of multiple trials is favored in the law because it ““conserves judicial and prosecutorial time, lessens the not inconsiderable expenses of multiple trials, diminishes inconvenience to witnesses, and minimizes the possibility of incongruous results in successive trials before different juries.”” *State v. Thompson*, 127 Ohio App.3d 511, 523, 713 N.E.2d 456 (8th Dist.1998) quoting *State v. Thomas*, 61 Ohio St.2d 223, 225, 400 N.E.2d 401 (1980). Relief from such joinder is available under Crim.R. 14 upon a demonstration of prejudice by the defendant. *State v. Harris-Powers*, 8th Dist. Cuyahoga No. 87921, 2007-Ohio-389, ¶ 17, citing *State v. Owens*, 51 Ohio App.2d 132, 366 N.E.2d 1367 (9th Dist.1975).

{¶23} Initially, we note that Holloway did not to object to the joinder of his trial at any stage of the proceedings. A party waives any claim of error concerning the joinder by failing to

raise an objection to the joinder. *Id.* ““A motion for severance due to prejudicial misjoinder * * * must be renewed at the close of the state’s case or at the conclusion of all the evidence and unless made at that time, it is waived.”” *Id.*, quoting *Owens* at paragraph two of the syllabus. *See also* Crim.R. 8(B). Thus, Holloway has waived all but plain error. *State v. Hughes*, 8th Dist. Cuyahoga Nos. 98667 and 98668, 2013-Ohio-1550, ¶ 25, citing *Owens* at 146.

{¶24} In reviewing the record, we are unable to find that Holloway suffered any prejudice as a result of the joinder. Malone’s defense centered on inculcating Prude and Jemeal Evans (“Evans”), the individual Gamez thought was responsible for the murder. Evans is also known as “Mal” and was dating Stratford’s ex-girlfriend at the time of the murder. Malone tried to inculcate Prude by pointing out his history of driving Malone’s Chevy Impala. Malone tried to inculcate Evans by pointing out Gamez’s allegations on the night of the murder, the prior relationship between Evans’s girlfriend and Stratford, and Evans owning a car similar to the one used in Stratford’s murder. Conversely, Holloway’s defense focused on discrediting Prude, who identified Holloway in the surveillance video, and Young and Smith, Holloway’s cellmates from the county jail who testified to Holloway confessing his involvement in Stratford’s murder. At no point in trial did Holloway or Malone attempt to inculcate each other.

{¶25} Holloway further argues the prejudicial effect of the joinder was evident by the trial court’s statement that: “[t]his should have been two trials. We should have bifurcated this, to avoid this exact problem. But regardless, pare it down and we’ll go.” The court made this comment during the discussion among defense counsel for Malone and Holloway and the prosecutor regarding Smith’s testimony.

{¶26} Prior to Smith testifying, Malone objected to any testimony regarding the conversation Smith witnessed between Holloway and Malone inside county jail. Malone’s

objection focused on his inability to effectively cross-examine Smith concerning the contents of the conversation between Holloway and Malone. This objection was overruled by the trial court after the state indicated it would pare down Smith's testimony and not ask any questions about the content of the conversation between Holloway and Malone. The state provided the trial court with a list of questions intended for Smith. After hearing the list of questions, the trial court said: "[t]hat's — okay, that's fine. Exactly like that? Okay. All right." By paring down Smith's testimony, the basis of Malone's objection was moot. As a result, Holloway failed to demonstrate any prejudice by the joint trial. Therefore, we find that the joinder was proper.

{¶27} Accordingly, the first assignment of error is overruled.

Bruton Violation

{¶28} In the second assignment of error, Holloway argues the joint trial denied him from his Sixth Amendment right to confront and cross-examine his codefendant (Malone). He contends that the trial court violated the rule announced in *Bruton*, 391 U.S. 123, 88 S.Ct. 1620, 20 L.Ed. 2d 476 (1968), and adopted by Ohio in *Moritz*, 63 Ohio St.2d 150, 407 N.E.2d 1268 (1980).

{¶29} In *Bruton*, the United States Supreme Court found that the introduction of the accomplice's out-of-court confession at defendant's trial violated the defendant's Sixth Amendment right to cross-examine witnesses against him. *Id.* at 126. In *Moritz*, the Ohio Supreme Court adopted the Supreme Court's holding in *Bruton*. The court held that:

An accused's right of cross-examination secured by the confrontation clause of the Sixth Amendment is violated in a joint trial with a non-testifying codefendant by the admission of extrajudicial statements made by the codefendant inculcating the accused.

Moritz at paragraph one of the syllabus, citing *Bruton*.

{¶30} A review of the record, however, reveals that there was not a single statement attributed to Malone that implicated Holloway. The statements attributed to Malone focused on Malone’s motive for killing Stratford, Malone’s efforts to contact Stratford prior to the murder, and Malone’s transfer of the title to the Chevy Impala to Noles. None of these statements referenced Holloway or incriminated Holloway in any way.

{¶31} Accordingly, the second assignment of error is overruled.

Sufficiency of the Evidence

{¶32} In the third assignment of error, Holloway argues the state failed to establish that he murdered Stratford. He contends that there is no direct physical evidence that links him to the murder.

{¶33} The Ohio Supreme Court in *State v. Diar*, 120 Ohio St.3d 460, 2008-Ohio-6266, 900 N.E.2d 565, ¶ 113, explained the standard for sufficiency of the evidence as follows:

Raising the question of whether the evidence is legally sufficient to support the jury verdict as a matter of law invokes a due process concern. *State v. Thompkins* (1997), 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541. In reviewing such a challenge, “[t]he relevant inquiry is 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* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus, following *Jackson v. Virginia* (1979), 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560.

{¶34} We are mindful that, in considering the sufficiency of evidence, a certain

perspective is required. *State v. Eley*, 56 Ohio St.2d 169, 172, 383 N.E.2d 132 (1978). “This court’s examination of the record at trial is limited to a determination of whether there was evidence presented, ‘which, if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt.’” *Id.*, quoting *Atkins v. State*, 115 Ohio St. 542, 546, 155 N.E. 189 (1926). It is the minds of the jurors, rather than a reviewing court, that must be convinced. *State v. Thomas*, 70 Ohio St.2d 79, 80, 434 N.E.2d 1356 (1982). The trial court recognized this in denying Holloway’s Crim.R. 29 motion to dismiss (except for Count 4 — kidnapping) when it stated: “this case I think does cry out for somebody to evaluate the facts and to weigh the credibility of the witnesses and that’s the jury’s position[.]”

{¶35} In the instant case, the evidence presented by the state was sufficient to sustain Holloway’s convictions. Nesmith testified that he was in his driveway when he observed an argument between Stratford and people inside of a white car. After hearing gunshots and a woman screaming, he observed the white car speeding away and Stratford stumbling across the street. When he ran up to Stratford, Lydston was already on scene assisting Stratford. Both Nesmith and Lydston testified that Stratford was in shock. He was bleeding, his eyes were glazed, and he could barely speak. Lydston asked him, “who did this?” Stratford responded by repeatedly saying “Mal.”

{¶36} Prude, who is Holloway’s cousin, identified Holloway from the surveillance video as the shooter. Prude wrote Holloway’s name next to the shooter on a still frame of the video. He testified that he knew Holloway “from his body weight.” The two jailhouse informants, Young and Smith, testified to Holloway’s involvement in the murder. While Young and Holloway were cellmates, Holloway told Young that a murder occurred around Denison Avenue, a guy named “Hot Mal” hired someone to shoot the victim, and there was a motive for the

murder. Young further testified that Holloway admitted to being the shooter and that Holloway was concerned because there were cameras at the scene. Smith testified that he had a conversation with Holloway concerning a murder. Holloway indicated to Smith that he was present for the murder. Smith further testified that he observed Holloway and Malone speaking with one another when they were in jail. Sowa, the homicide detective assigned to Stratford's murder, testified Holloway repeatedly denied that he knew Malone. However, when Malone was arrested, he was found with prescription pill bottles in Holloway's name.

{¶37} Based on the foregoing, when viewing the evidence in a light most favorable to the state, any rational trier of fact could have found the essential elements of the crimes proven beyond a reasonable doubt.

{¶38} Therefore, the third assignment of error is overruled.

Manifest Weight of the Evidence

{¶39} In the fourth assignment of error, Holloway claims that his convictions are against the manifest weight of the evidence. Holloway challenges the credibility of the testimony of the two jailhouse informants, Young and Smith.

{¶40} In contrast to a sufficiency argument, a manifest weight challenge questions whether the state met its burden of persuasion. *State v. Bowden*, 8th Dist. Cuyahoga No. 92266, 2009-Ohio-3598, ¶ 13, citing *Thompkins*, 78 Ohio St.3d at 390, 1997-Ohio-52, 678 N.E.2d 541. The Ohio Supreme Court in *State v. Wilson*, 113 Ohio St.3d 382, 2007-Ohio-2202, 865 N.E.2d 1264, ¶ 25, has stated:

[T]he reviewing court asks whose evidence is more persuasive — the state's or the defendants? * * * "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 factfinder's resolution of the conflicting testimony." [*Thompkins* at 387], citing *Tibbs v.*

Florida (1982), 457 U.S. 31, 42, 102 S.Ct. 2211, 72 L.Ed.2d 652.

{¶41} Moreover, an appellate court may not merely substitute its view for that of the jury, but must find that “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.” *Thompkins* at 387, quoting *State v. Martin*, 20 Ohio App.3d 172, 485 N.E.2d 717 (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.*, quoting *Martin*.

{¶42} We note that when considering a manifest weight challenge, the trier of fact is in the best position to take into account inconsistencies, along with the witnesses’s manner, demeanor, gestures, and voice inflections, in determining whether the proffered testimony is credible. *State v. Kurtz*, 8th Dist. Cuyahoga No. 99103, 2013-Ohio-2999, ¶ 26; *see also State v. Lilliard*, 8th Dist. Cuyahoga Nos. 99382, 99383, and 99385, 2013-Ohio-4906, ¶ 93 (In considering the credibility of witnesses on a manifest weight challenge, an appellate court is “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*, 10 Ohio St.3d 77, 80, 461 N.E.2d 1273 (1984)). Therefore, we afford great deference to the factfinder’s determination of witness credibility. *State v. Ball*, 8th Dist. Cuyahoga No. 99990, 2014-Ohio-1060, ¶ 36.

{¶43} Here, Holloway claims that Young and Smith cooperated with the state and lied on the witness stand in exchange for a better plea deal because they both were in county jail facing serious charges.

{¶44} While Young and Smith may have had ulterior motives when contacting the prosecutor, the jury observed Young and Smith's appearance and demeanor, heard the testimony about their prior criminal histories and the plea deals they received, and found their testimony to be credible. Furthermore, their testimony corroborates the letters they wrote to the prosecutor. This along with Prude's identification and Sowa's testimony that Holloway repeatedly lied about his relationship with Malone weighed heavily for Holloway's convictions. Therefore, we find that the convictions are not against the manifest weight of the evidence. We cannot say that the jury lost its way and created a manifest injustice in convicting Holloway.

{¶45} Accordingly, the fourth assignment of error is overruled.

{¶46} Judgment is affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's convictions having been affirmed, any bail pending appeal is terminated.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, JUDGE

FRANK D. CELEBREZZE, JR., A.J., and
KATHLEEN ANN KEOUGH, J., CONCUR

