

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	No. 25AP-556
v.	:	(C.P.C. No. 22CR-2637)
	:	
Tyrone Gray,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on September 15, 2026

On brief: *Shayla D. Favor*, Prosecuting Attorney, and *Benjamin A. Tracy*, for appellee. **Argued:** *Benjamin A. Tracy*.

On brief: *Campbell Law, LLC*, and *April F. Campbell*, for appellant. **Argued:** *April F. Campbell*.

APPEAL from the Franklin County Court of Common Pleas

DORRIAN, J.

{¶ 1} Defendant-appellant, Tyrone Gray, appeals from a judgment of conviction and sentence entered by the Franklin County Court of Common Pleas, following a jury trial, finding him guilty of two counts of murder and one count of inducing panic, each with a firearm specification. For the following reasons, we affirm.

I. Facts and Procedural History

{¶ 2} On June 15, 2022, appellant was indicted on one count of aggravated burglary in violation of R.C. 2911.11, a first-degree felony (Count 1), two counts of aggravated murder in violation of R.C. 2903.01, unspecified felonies (Counts 2 and 3), two counts of murder in violation of R.C. 2903.02, unspecified felonies (Counts 4 and 5), and one count of inducing

panic in violation of R.C. 2917.31, a fourth-degree felony (Count 6). Each count carried a three-year firearm specification pursuant to R.C. 2941.145(A).

{¶ 3} The charges arose from an altercation at a mall shoe store that resulted in appellant fatally shooting the victim.

{¶ 4} A jury trial commenced on June 9, 2025. Plaintiff-appellee, State of Ohio, presented the following evidence.

{¶ 5} A sales associate at the shoe store testified that she was working on the day of the shooting. During her testimony, the state presented surveillance video obtained from the shoe store. At the time of the incident, she testified that she was at the store counter when she heard an argument and then gunshots. She turned around and “saw it” and then everyone started running. (Tr. Vol. 2 at 291.) She ran out of the store, and the store was eventually evacuated.

{¶ 6} On the surveillance video, which does not contain audio, it can be observed that the victim is near the rear of the store along one wall trying on sandals and appellant is seated near the front of the store facing the same wall. Appellant begins to walk toward the victim and, as he approaches, the victim leaves the sandals and walks toward the opposite side of the store. In the middle of the store, the victim stops and turns toward appellant where the two appear to be in conversation. The victim removes a phone from his pocket and backs away as appellant moves closer. The victim turns again to walk toward the opposite wall of the store and then faces appellant. Appellant continues to take steps toward the victim. While the victim continues to back away, he removes his hat and a cross-body purse over his head. The victim swats the purse toward appellant and then appears to stumble several steps backward. As the victim is leaning over, appellant removes a firearm from his pants pocket and takes multiple shots in the victim’s direction. The victim does not get up. Appellant returns the firearm to his pants pocket and walks out of the store.

{¶ 7} Officer David Feltner of the Columbus Division of Police responded to the mall in response to 9-1-1 calls reporting a shooting. Officer Feltner testified that appellant was one of the 9-1-1 callers. When the officer arrived to the mall, he found appellant in the parking lot matching the description of the shooter. Appellant cooperated with his arrest and showed the officer where the gun was located. He also told the officer that he had been

assaulted, that he acted in self-defense, and that he himself had been shot a couple years prior.

{¶ 8} An officer with the Columbus Division of Police Crime Scene Search Unit testified regarding the photos and physical evidence collected from the scene. A forensic pathologist testified regarding the victim's autopsy and the conclusion that the cause of death was multiple gunshot wounds.

{¶ 9} Following deliberations, the jury returned verdicts finding appellant not guilty of aggravated burglary and aggravated murder, but guilty of both counts of murder and the sole count of inducing panic as well as the firearm specifications accompanying those counts.

{¶ 10} At the sentencing hearing on June 13, 2025, the trial court merged the two murder counts and sentenced appellant to an aggregate indefinite prison term of 21 years to life consisting of a mandatory indefinite sentence of life with parole eligibility after 15 years on the merged murder convictions, a nonmandatory definite sentence of 18 months on the inducing panic conviction, plus mandatory definite sentences of 36 months for each of the two firearm specifications on the sentenced counts. Appellant's convictions and sentence were memorialized in the trial court's June 18, 2025, judgment entry.

II. Assignments of Error

{¶ 11} Appellant appeals and assigns the following assignments of error for our review:

I. Trial counsel was prejudicially ineffective for failing to move to disqualify the trial court.

II. The trial court should have granted Gray's motion to continue his trial, because an expert to testify as to Gray's PTSD is admissible, and would have assisted the jury in reaching its decision.

III. Gray's murder conviction must be reversed, because the trial court incorrectly instructed the jury on the law of self-defense:

A. Its "at fault" instruction was based on dictum and impermissibly supplanted the jury's fact-finding determination on that issue.

B. It improperly instructed the jury that apparent danger was an objective-and-subjective standard when it was a subjective standard.

IV. The trial court improperly asked the jury to reconsider its decision on physical harm with respect to the inducing panic count.

V. The evidence manifestly weighed against Gray's conviction.

III. Discussion

A. First assignment of error

{¶ 12} In the first assignment of error, appellant argues that his trial counsel's failure to move to disqualify the trial court for its alleged bias against him constituted ineffective assistance of counsel.

{¶ 13} To prevail on a claim of ineffective assistance of counsel, appellant must establish (1) that his counsel's performance was deficient, and (2) that the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). A deficient performance is one that falls below an objective standard of reasonable representation. *State v. Bradley*, 42 Ohio St.3d 136 (1989), paragraph two of the syllabus. To establish prejudice, appellant must show that there existed a reasonable probability that, but for his counsel's errors, the outcome of the proceeding would have been different. *State v. Sowell*, 2016-Ohio-8025, ¶ 138. It is not necessary to address both prongs of *Strickland* if an appellant fails to prove either prong. *State v. Carter*, 2017-Ohio-8847, ¶ 27 (9th Dist.).

{¶ 14} The proper method to address potential judicial bias in a pending case is an affidavit of disqualification under R.C. 2701.03. *State v. Loudermilk*, 2017-Ohio-7378, ¶ 18 (1st Dist.), quoting *State v. Johnson*, 140 Ohio App.3d 385, 391 (1st Dist. 2000) (" '[g]enerally, the proper avenue for redress when a party believes that the trial judge is biased is the filing of an affidavit of bias and prejudice with the Supreme Court of Ohio' ").

{¶ 15} "Judicial bias has been described as 'a hostile feeling or spirit of ill will or undue friendship or favoritism toward one of the litigants or his attorney, with the formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and the facts.'" *State v. Dean*, 2010-Ohio-5070, ¶ 48, quoting *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463 (1956), paragraph four of the syllabus. "A judge is presumed not to be biased or prejudiced, and a

party alleging bias or prejudice must present evidence to overcome the presumption.” *Wardeh v. Altabchi*, 2004-Ohio-4423, ¶ 20 (10th Dist.). “The appearance of bias or prejudice must be compelling to overcome this presumption of integrity.” *Trott v. Trott*, 2002-Ohio-1077, ¶ 18 (10th Dist.), citing *In re Disqualification of Olivito*, 74 Ohio St.3d 1261, 1263 (1994); *State v. Power*, 2013-Ohio-4254, ¶ 23 (7th Dist.). Ordinarily, a bias challenge requires more than a trial court’s “expressions of impatience, dissatisfaction, annoyance, and even anger” or comments “that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases.” *Liteky v. United States*, 510 U.S. 540, 555 (1994).

{¶ 16} “[A] defendant may assert that defense counsel’s failure to seek disqualification constitutes ineffective assistance where a reasonable probability exists that an affidavit of bias would have been granted and resulting prejudice.” *State v. Smith*, 2022-Ohio-1984, ¶ 74 (12th Dist.), citing *State v. Beasley*, 2018-Ohio-493, ¶ 140, 148. In *Smith*, the Twelfth District Court of Appeals concluded that Smith’s counsel was not ineffective for failing to file an affidavit of disqualification, finding that the record did “not support the conclusion that an affidavit of bias would have been granted” and that Smith directed the court to “no evidence in the record that would suggest that he was prejudiced or denied a fair trial.” *Smith* at ¶ 88-89. See also *Solon v. Depew*, 2023-Ohio-304, ¶ 36 (8th Dist.) (“If counsel could reasonably conclude that obtaining disqualification was unlikely, his performance cannot be deemed deficient.”).

{¶ 17} Here, appellant argues that the trial court demonstrated actual bias during two pre-trial hearings. At the first hearing on February 10, 2025, appellant’s trial counsel at the time sought to withdraw so that appellant could retain new counsel. Appellant noted in his brief that the trial court characterized this as a “last-minute maneuver” to delay trial and that it accused appellant of complaining. (Appellant’s Brief at 6.) Appellant argued that the trial court became more contentious at the second hearing on February 14, 2025, when the trial court questioned appellant’s credibility.

{¶ 18} The trial court’s comments at the hearings reflect a mounting concern about delay given the number of prior continuances, the impending trial date coupled with the late-hour request for a continuance, and appellant’s prior requests for new counsel. The victim’s family was also present at a prior hearing for a continuance request by appellant

on different grounds, on January 29, 2025, and had spoken to the trial court about its concerns with the trial delay then. Additionally, we note that the trial court's comments did not relate to substantive facts regarding the case nor did they show a predisposition regarding appellant's guilt or innocence. The comments were, instead, related to the trial court's perception that appellant was engaging in tactics to delay another scheduled trial date.

{¶ 19} Moreover, however immoderate its expressions of frustration, the trial court ultimately granted the requested continuance so that appellant could retain new counsel. Thereafter, appellant retained new counsel, and the case proceeded to a jury trial.

{¶ 20} On these facts, we do not find that appellant has demonstrated actual bias or that the trial court acted in a way that would rise to the level of overcoming the presumption of judicial integrity in a proceeding. Nor has appellant demonstrated a reasonable probability that an affidavit of disqualification would have been granted. Therefore, we cannot conclude that appellant met the burden for ineffective assistance of counsel under *Strickland*. Accordingly, we overrule appellant's first assignment of error.

B. Second Assignment of Error

{¶ 21} In the second assignment of error, appellant argues that the trial court should have granted appellant's motion to continue his trial to allow for an expert witness on post-traumatic stress disorder ("PTSD").

{¶ 22} "The grant or denial of a continuance is a matter [that] is entrusted to the broad, sound discretion of the trial judge. An appellate court must not reverse the denial of a continuance unless there has been an abuse of discretion.'" *State v. Jones*, 2001-Ohio-57, ¶ 29, quoting *State v. Unger*, 67 Ohio St.2d 65, 67 (1981). Abuse of discretion is more than an error of law or judgment and refers to a decision that is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶ 23} On January 29, 2025, appellant moved for a court order seeking fees in order to retain an expert witness. On February 4, 2025, the trial court denied the motion. In doing so, it explained that the court had held a hearing on January 30, 2025, on appellant's oral motion for a continuance for time to engage an expert and prepare for trial during which appellant suggested that "this psychologist would likely explore a theory that Defendant suffers from post-traumatic stress disorder and that this disorder may support,

corroborate, and/or explain a self-defense theory.” (Feb. 4, 2025 Entry at 1.) The entry noted that “the basis for Defendant’s requested continuance was that he needed more time to gather potential evidence.” (Feb. 4, 2025 Entry at 1.) The trial court denied the request for expert fees because, in its view, expert testimony on a self-defense claim was generally inadmissible. The trial court also noted that it considered the request for expert fees untimely because trial was scheduled to begin on February 18, 2025, a date that had been set by the parties and the trial court six months prior on July 29, 2024.

{¶ 24} In his merit brief on appeal, appellant argues that an expert’s testimony regarding PTSD would have helped the jury understand how the condition could affect his perception, relevant to self-defense. Therefore, appellant argues, the trial court should have granted the motion. In response, the state argues that the trial court denied the continuance for three reasons: namely, the long delay already noted by the victim’s family; the amount of time pending before the issue was raised; and its belief that the testimony would not ultimately be admissible.

{¶ 25} At the January 30, 2025 hearing, the victim’s father spoke to the court and requested that the continuance be denied, noting the more than two and a half years during which the case had already been pending. R.C. 2930.08(B)¹ states that, if a victim’s representative objects to a request for a continuance, “the court shall consider the objections and the victim’s right to a speedy disposition of the case” R.C. 2930.08(C) instructs that the court shall grant a continuance over the objection of a victim’s representative “only if the party seeking the continuance demonstrates that the delay in the prosecution of the case is reasonable under the circumstances or is otherwise in the interest of justice.”

{¶ 26} Under the circumstances of this case, we do not find that the trial court abused its discretion in denying the described continuance. In 2023, the trial court continued the trial date from July 24 to October 12, 2023, at the request of the parties, referencing in the entry that the defense was retaining an expert. In August 2023, appellant retained new trial counsel. As the trial court noted at the hearing on the continuance request at issue here, appellant’s then-trial counsel had been appellant’s trial counsel for

¹ R.C. 2930.08(B) was enacted as part of the legislation implementing provisions of the Ohio Constitution known as Marsy’s Law for victims’ rights. *See State ex rel. Panzeca v. Highland Cty. Court of Common Pleas, Gen. Div.* 2023-Ohio-1520, ¶ 11 (Brunner, J., dissenting).

approximately 17 months before seeking the requested continuance. At the time of the continuance request, trial was scheduled to begin just 20 days later on February 18, 2025, and prior continuances had already occurred.

{¶ 27} Pursuant to Crim.R. 16(K), an expert witness' written report shall be disclosed no later than 21 days prior to trial. Although that period may be modified by the court for good cause shown which does not prejudice any other party, *see* Crim.R. 16(K), appellant's request created the potential for a significant delay when taking into account the time required for the retention of the expert, the preparation of the expert report, and the required disclosure time. We also note that appellant made no prior request for fees for an expert on PTSD while the case was pending for over two years, even after having requested a competency examination due, in part, to facts regarding appellant's "mental condition at the time of the alleged offense," and appellant having been found competent to stand trial in July 2024. (June 10, 2024 Mot.; July 29, 2024 Entry Finding Def. Competent to Stand Trial.)

{¶ 28} Given the foregoing, we cannot conclude on the facts of this case that the trial court abused its discretion in denying the requested continuance. Therefore, we overrule the second assignment of error.

C. Third assignment of error

{¶ 29} In the third assignment of error, appellant argues that the trial court improperly instructed the jury on self-defense law. Appellant first argues that the court's "at fault" instruction was improper. Appellant next argues that the trial court improperly instructed the jury regarding the reasonableness of force element of self-defense by describing that it was measured by an objective and subjective standard.

{¶ 30} In general, a trial court's jury instructions are reviewed for an abuse of discretion. *State v. Hall*, 2023-Ohio-837, ¶ 34 (10th Dist.), citing *State v. Dovangpraseuth*, 2006-Ohio-1533, ¶ 31 (10th Dist.). Abuse of discretion connotes the trial court's attitude was unreasonable, arbitrary, or unconscionable. *Hall* at ¶ 34, citing *Blakemore*, 5 Ohio St.3d at 219. "However, whether a particular jury instruction is warranted by the evidence is a question of law." *Hall* at ¶ 34, citing *State v. Daniels*, 2019-Ohio-1791, ¶ 4 (10th Dist.). "The question of whether a jury instruction is legally correct and factually warranted is

subject to de novo review.” *Cromer v. Children’s Hosp. Med. Ctr. of Akron*, 2015-Ohio-229, ¶ 22.

{¶ 31} “When deadly force is used, the state must disprove beyond a reasonable doubt at least one of the following elements of a self-defense claim: (1) the accused was not at fault in creating the situation giving rise to the affray; (2) the accused had a bona fide belief that he was in imminent danger of death or great bodily harm and that his only means of escape from such danger was the use of such force, and (3) the accused did not violate any duty to retreat or avoid the danger.”² *State v. Patterson*, 2025-Ohio-280, ¶ 40 (10th Dist.), citing *State v. Messenger*, 2022-Ohio-4562, ¶ 14, citing *State v. Barnes*, 2002-Ohio-68, ¶ 11.

{¶ 32} At trial, appellant’s counsel requested that the court use the form of the “at fault” instruction set forth in the Ohio Jury Instructions (“OJI”).³ The state countered that

² We note that, effective April 6, 2021, the General Assembly amended R.C. 2901.09 as to the “duty to retreat” element of self-defense. R.C. 2901.09(B) provides in relevant part: “For purposes of any section of the Revised Code that sets forth a criminal offense, a person has no duty to retreat before using force in self-defense . . . if that person is in a place in which the person lawfully has a right to be.” R.C. 2901.09(C) further provides that “[a] trier of fact shall not consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense . . . reasonably believed that the force was necessary to prevent injury, loss, or risk to life or safety.”

³ The Ohio Jury Instructions provide the following model instruction for the “at-fault” element of self-defense:

7. AT FAULT. The defendant did not act in (self-defense) (defense of his/her residence) if the state proved beyond a reasonable doubt that the defendant was at fault in creating the (situation) (incident) (argument) that resulted in the (injury) (death). The defendant was at fault if the defendant was the initial aggressor and

(Use appropriate alternative[s])

(A) (insert name of victim[s]) did not escalate the (situation) (incident) (argument) by being the first to use or attempt to use (non-deadly force) (deadly force);

(B) the defendant provoked (insert name of victim[s]) into using force;

(C) the defendant did not withdraw from the (situation) (incident) (argument);

(D) the defendant withdrew from the (situation) (incident) (argument) but did not (inform [insert name of victim(s)]) (reasonably indicate by words or acts to [insert name of victim[s]) of his/her withdrawal.

² *Ohio Jury Instructions*, CR § 421.21 (Rev. Jan. 25, 2025).

the court should adopt its proposed instruction which relied on descriptions of the “at fault” element of self-defense from case law, including this court’s decision in *Patterson* because the language was “on point to this case.” (Tr. Vol. 3 at 452.)

{¶ 33} Ultimately, the trial court overruled appellant’s objection and adopted the following modified version of the state’s proposed language.

. . . AT FAULT. This first element of self-defense does not require, in all situations, the determination of who threw the first punch. Rather, this element provides that the Defendant must not be at fault in creating the situation that gave rise to the affray. The concept is broader than simply not being the immediate aggressor. A person cannot provoke an assault or voluntarily enter an encounter and then claim a right to self-defense. A defendant may also not confront a victim, choose to knowingly go to a place where the victim will be, even when the defendant’s action was otherwise completely lawful.

(June 16, 2025 Jury Instructions at 18.)

{¶ 34} Appellant argues that the above jury instruction was based on dictum in *State v. Patterson* and that the instruction supplanted the jury’s role as factfinder.

{¶ 35} Although this court has attached significance to a trial court’s instructions that are consistent with the language from the OJI, the OJI are not binding legal authority. *State v. Aekins*, 2023-Ohio-322, ¶ 118 (10th Dist.).

{¶ 36} We find that appellant’s concerns about the reliance on *Patterson* to inform the language of the jury instruction is misplaced. We note that the model instructions indicate that their language derived from case law. (*See, e.g.*, Comments in 2 *Ohio Jury Instructions*, CR § 421.21 (Rev. Jan. 25, 2025).) Moreover, the language informing the jury instruction here was not unique to *Patterson*. *See, e.g.*, *State v. Ellis*, 2012-Ohio-3586, ¶ 15 (10th Dist.) (noting that a “multitude of courts” have found a defendant at fault in creating the affray when the defendant “chooses to confront the victim, chooses to knowingly go to a place where the victim will be or refuses to move in a direction away from the victim, even when the defendant’s action was otherwise completely lawful,” and citing eight cases from Ohio courts of appeals in support).

{¶ 37} Appellant does not develop his argument that the jury instruction supplants the jury’s role as factfinder, but we do not find such a material difference between the OJI model instruction and the instruction provided the jury here to suggest a concern of this

nature given the facts of this case. Thus, we are not persuaded by appellant's argument that the at-fault instruction provided in this case was an incorrect statement of law or factually inappropriate.

{¶ 38} Appellant next argues that the jury instruction on the reasonableness of appellant's force was improperly described as including an objective determination when it is a subjective-only inquiry.⁴ In his brief, appellant cites the OJI instruction for reasonable grounds and honest belief which states as follows:

8. TEST FOR REASONABLE GROUNDS AND HONEST BELIEF. In deciding whether the defendant had reasonable grounds to believe and an honest belief that he/she was in (imminent) (immediate) danger of (death) (great bodily harm), you must put yourself in the position of the defendant, with his/her characteristics, his/her knowledge or lack of knowledge, and under the circumstances and conditions that surrounded him/her at the time. You must consider the conduct of (*insert name of victim[s]*) and decide whether his/her/their acts and words caused the defendant to reasonably and honestly believe that the defendant was about to (be killed) (receive great bodily harm).

2 Ohio Jury Instructions, CR § 421.21 (Rev. Jan. 25, 2025).

{¶ 39} Here, the trial court instructed the jury on this element as follows:

... REASONABLE GROUNDS AND HONEST BELIEF. These elements of self-defense are a combined objective, and then subjective test. You must first consider the defendant's situation objectively—that is, considering all the Defendant's particular characteristics, knowledge or lack of knowledge, circumstances, history, and conditions at the time of the attack, from an objective standpoint, whether it was objectively reasonable to believe that he was in imminent danger of death or great bodily harm. Determining whether the Defendant's conduct was objectively reasonable is a matter of applying common sense to a particular set of facts.

... Then, if the objective standard is met, you must subjectively consider if this particular Defendant had an honest belief that he was in imminent danger of death or great bodily harm. In deciding whether the Defendant had an honest belief, even if

⁴ Despite appellant describing this instruction as one regarding the reasonableness of force used, his argument is focused on the second element of a self-defense claim; namely, whether the accused had a bona fide belief that he was in imminent danger of death or great bodily harm and that his only means of escape from such danger was the use of such force.

mistaken, that he was in imminent danger of death or great bodily harm, you must put yourself in the position of the Defendant with his characteristics, his knowledge or lack of knowledge, and under the circumstances and conditions that surrounded him at the time.

(June 16, 2025 Jury Instructions at 18-19.)

{¶ 40} Contrary to appellant’s assertion that this is an objective-only inquiry, this element of a self-defense claim⁵ involves a “combined subjective and objective test.” *State v. Thomas*, 1997-Ohio-269, ¶ 29. The trier of fact “first must consider the defendant’s situation objectively, that is, whether, considering all of the defendant’s particular characteristics, knowledge, or lack of knowledge, circumstances, history, and conditions at the time of the attack, [t]he *reasonably* believed [t]he was in imminent danger.” (Emphasis in original.) *Id.* “Then, if the objective standard is met, the [trier of fact] must determine if, subjectively, this particular defendant had an *honest* belief that [t]he was in imminent danger.” (Emphasis in original.) *Id.*

{¶ 41} In light of the foregoing, we disagree with appellant that the jury was improperly led to believe that it was to objectively evaluate whether appellant’s apparent danger was reasonable in addition to a subjective inquiry considering appellant’s perspective. We find no error in the trial court’s instruction.

{¶ 42} Because we find no error in the two jury instructions appellant has challenged on appeal, we overrule appellant’s third assignment of error.

D. Fourth assignment of error

{¶ 43} In the fourth assignment of error, appellant argues that the trial court improperly asked the jury to reconsider its decision on physical harm with respect to the inducing panic count.

{¶ 44} During the reading of the verdict, the trial court noted that there was no jury finding regarding an element of the inducing panic charge. Specifically, the trial court stated as follows while reading the verdict form aloud:

⁵ Appellant describes his argument as being one about the instruction on the reasonableness of appellant’s force. But the instruction he addresses in his brief is the instruction on reasonable grounds and honest belief. And the trial court here provided the jury a separate instruction on reasonable force. (See June 16, 2025 Jury Instructions at 19.) Thus, we focus our inquiry on what appellant has argued and, accordingly, address the instruction on reasonable grounds and honest belief.

We, the jury, being duly impanelled [sic] and sworn, do hereby find defendant, Tyrone Gray, guilty of inducing panic as charged in Count 6 of the indictment. We also find that defendant's conduct did or did not, circle one, result in physical harm to any person. *There is no finding from the jury with respect to this count.*

(Emphasis added.) (Tr. Vol. 5 at 696.)

{¶ 45} Upon this realization, the trial court allowed arguments from the parties regarding how to proceed. The state argued that the trial court should send the jury back to reach a decision on the question given that the omitted answer was a required finding. Appellant's trial counsel argued that the jury's omission of an answer on whether defendant's conduct did or did not result in physical harm should have been read to imply that jury did *not* find it to apply. Appellant's counsel also argued that the court would invade the province of the jury if it were to send the jury back to make the omitted finding.

{¶ 46} Over appellant's objection, the trial court concluded it would return the verdict to the jury for it to continue deliberation on the count, explaining as follows:

So, ladies and gentlemen of the jury, in order to find a verdict with respect to Count 6, inducing panic, there was a required finding that the jury find that the defendant did or did not -- the defendant's conduct did or did not result in physical harm to any person.

Given the fact that the failure to answer this particular question results in a defect in the jury form, the Court must decline to receive this verdict on Count 6, and I'm going to order you to retire for further consideration. And I'm going to ask you to answer that question if you can, based upon the rules of -- if you can do so unanimously and with each according to your own conviction but with a view to trying to reach agreement, if possible.

So at this time I'm going to return you to the jury room with verdict Form 6, and we'll allow you to continue to deliberate further.

(Tr. Vol. 5 at 698-99.)

{¶ 47} Thereafter, the jury returned a complete verdict on the inducing panic charge finding that appellant's conduct did result in physical harm to another person. As a result, appellant was convicted of the inducing panic account and the firearm specification accompanying that count.

{¶ 48} The circumstances here are similar to those present in *State v. Maurer*, 15 Ohio St.3d 239 (1984). In that case, the jury had failed to enter a finding on an aggravating circumstance for an aggravated murder count, and the Supreme Court of Ohio found that the court properly refused the verdict because it was incomplete and because appellant had failed to show any error in the corrected verdict form that would demonstrate “doubt of . . . [its] import,” “irresponsiveness” or a “manifest tendency to work injustice,” or any prejudice or violation of the appellant’s due process rights. *Maurer* at 249. The Supreme Court cited three cases in which reviewing courts found that trial courts properly allowed juries to further deliberate and return a properly executed verdict form on these bases. *Id.*, citing *State v. Hale*, 165 Ohio St. 104 (1956); *State v. McNicol*, 143 Ohio St. 39 (1944), paragraph two of syllabus; *Hurley v. State*, 4 Ohio C.C. 425, 428 (1890).

{¶ 49} Additionally, the Supreme Court has held that “a trial court may send a jury back to reconsider answers to interrogatories which are insufficient, incomplete, or contradictory or show a misconception of the question,” but, “in doing so, the trial court may not indicate to the jury the answer to be returned.” *Smiley v. Leonard*, 1994 Ohio App. LEXIS 572, *9 (2d Dist. Feb. 16, 1994), citing *Elio v. Akron Transp. Co.*, 147 Ohio St. 363, 371 (1947), citing 64 C.J., § 972, at 1184. In *De Boer v. Toledo Soccer Partners, Inc.*, 65 Ohio App.3d 251 (6th Dist. 1989), the Sixth District Court of Appeals gleaned from the relevant case law two conflicting factors to be weighed: (1) “a jury should be able to conform its verdict to its intention to avoid the necessity of a new trial;” but (2) “the court cannot invade the province of the jury by suggesting or implying that the jury came to the wrong conclusion.” *De Boer* at 258.

{¶ 50} Here, the verdict form instructed the jury to indicate whether the defendant’s conduct “did or did not” result in physical harm, and the jury omitted the finding. The verdict form was incomplete, and the trial court asked the jury to complete it. Appellant makes no showing that the trial court’s instruction to the jury to further consider and complete the verdict form suggested or implied that the jury should reach a particular answer. Additionally, there is no evidence that the resulting completed verdict form was irresponsive or cast any doubt on the jury’s determination.

{¶ 51} On these facts, we find no error in the trial court’s actions. Accordingly, we overrule the fourth assignment of error.

E. Fifth assignment of error

{¶ 52} In the fifth assignment of error, appellant argues that his conviction is against the manifest weight of the evidence.

{¶ 53} A manifest weight claim “attacks the credibility of the evidence presented and questions whether the state met its burden of persuasion.” *State v. Harris*, 2026-Ohio-2492, ¶ 10 (10th Dist.), citing *State v. Richey*, 2018-Ohio-3498, ¶ 50 (10th Dist.), citing *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 11-13; see also *State v. Reillo*, 2026-Ohio-2701, ¶ 25 (reaffirming the manifest weight standard as it was explained in *Eastley* at ¶ 12). In conducting a manifest weight review, a court “weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines 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.” (Cleaned up.) *Reillo* at ¶ 26. “ ‘In weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.’ ” *Id.* at ¶ 28, quoting *Eastley* at ¶ 21.

{¶ 54} We have noted that “[a] self-defense claim is generally an issue of credibility.” (Cleaned up.) *Patterson*, 2025-Ohio-280, at ¶ 45 (10th Dist.). “ ‘ ‘ ‘Disputes in credibility for the purpose of evaluating self-defense are best resolved by the trier of fact.’ ” ’ ” *Id.*, quoting *State v. Jamii*, 2023-Ohio-4671, ¶ 78 (10th Dist.), quoting *State v. Lawrence*, 2023-Ohio-3419, ¶ 41 (11th Dist.), quoting *State v. Bentley*, 2023-Ohio-1792, ¶ 24 (11th Dist.).

{¶ 55} Appellant argues that the evidence demonstrated he was not at fault in creating the situation and that he was attacked by the victim. He argues that the victim’s comments along with his movement toward appellant gave appellant a reasonable belief that he was in serious physical harm, even if mistaken. In response, the state contends that the evidence shows that appellant confronted the victim, advanced while the victim retreated, verbally challenged the victim and stated he would resort to physical violence, then fatally shot the victim. The state also notes that no firearm was found in the victim’s possession after the shooting.

{¶ 56} Here, the jury viewed the surveillance footage of the encounter and heard the testimony of a store employee there during the incident. Appellant did not testify. In light

of the evidence presented, the jury could have reasonably concluded that appellant was not entitled to a self-defense claim. “[A] conviction is not against the manifest weight of the evidence because the trier of fact believed the state’s version of events over the defendant’s version.” *State v. Messenger*, 2021-Ohio-2044, ¶ 49 (10th Dist.).

{¶ 57} Having reviewed the entire record, weighed the evidence and all reasonable inferences, and considered the credibility of witnesses while appropriately deferring to the factfinder’s credibility determinations, we conclude that the jury did not lose its way and create a manifest miscarriage of justice when it found that the state disproved beyond a reasonable doubt at least one of the elements of self-defense. Accordingly, we overrule the fifth assignment of error.

IV. Conclusion

{¶ 58} For the foregoing reasons, we overrule appellant’s five assignments of error. We therefore affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

JAMISON and EDELSTEIN, JJ., concur.
