

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

STATE OF OHIO

Appellee

v.

ROBERT COX

Appellant

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C.A. No. 30609

Trial Court Case No. 2024 CR 02126

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

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Pursuant to the opinion of this court rendered on October 23, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



MICHAEL L. TUCKER, JUDGE

EPLEY, J., and HANSEMAN, J., concur.

OPINION
MONTGOMERY C.A. No. 30609

JOHNNA M. SHIA, Attorney for Appellant
MICHAEL P. ALLEN, Attorney for Appellee

TUCKER, J.

{¶ 1} Defendant-appellant Robert Cox appeals from his convictions for two counts of felonious assault and resisting arrest. For the following reasons, we affirm.

I. Factual and Procedural Background

{¶ 2} On July 25, 2024, Moraine Police Department officer Joshua Beaty was on routine patrol when he heard a dispatch regarding a shooting at Central Presbyterian Church on Lamme Road. Beaty, who was a few blocks from the scene, responded and observed a vehicle matching that described by the dispatch. Beaty followed the car and initiated a traffic stop. However, the vehicle continued to drive through an intersection and passed several houses before it stopped in front of a residence on Lehigh Place. After other officers arrived, Cox was identified as the driver and sole occupant of the vehicle. A handgun was observed in plain sight on the front passenger seat, and a small dog was in the back seat of the vehicle. Cox did not comply with officer commands and was, ultimately, forcibly removed from the vehicle and taken to the ground. Because Cox continued to struggle, the officers used both a taser and pepper spray to subdue him.

{¶ 3} On August 2, 2024, Cox was indicted on two counts of felonious assault (deadly weapon) in violation of R.C. 2903.11(A)(2) and one count of resisting arrest in violation of R.C. 2921.33(B). The felonious assault counts had attached three-year and five-year firearm specifications.

{¶ 4} On August 22, 2024, Cox filed a plea of not guilty by reason of insanity and a suggestion of incompetency to stand trial. The trial court filed an entry ordering that Cox undergo a psychiatric evaluation. On October 10, 2024, a competency hearing was conducted during which the parties stipulated to the contents of the submitted psychiatric report. The court found that Cox was competent to stand trial. Cox subsequently filed a request for a second evaluation in which he noted that his mental status at the time of the offense needed to be determined. Thereafter, he withdrew the request and asked that a trial date be set.

{¶ 5} On October 10, 2024, Cox filed a motion to suppress, which was denied by the trial court following a hearing. On March 20, 2025, Cox filed a notice of self-defense and defense of property. Prior to trial, Cox entered a guilty plea to the charge of resisting arrest. In exchange, the State dismissed the five-year firearm specifications attached to the felonious assault charges. A jury trial on the felonious assault counts was conducted in August of 2025.

{¶ 6} The State presented the testimony of A.B., who lived on Cluster Avenue at the time of the incident. A.B.'s backyard, which is fenced, is adjacent to the south side of the Central Presbyterian Church property. A.B.'s two dogs, a German Shepherd and an Anatolian Shepherd, were outside in the home's backyard when she heard them "barking insistently" and "more than what would have been normal." She walked into her backyard and heard a man yell, "If you don't shut the f—k up, I'm going to shoot you." At that point, her neighbor, R.G., walked out of his house into his backyard. A.B. walked down to her fence line and exited her yard through a gate. She then began "peeking through the trees" at the fence line when she spotted a man, later identified as Cox, sitting in a vehicle in the church

parking lot. She determined that the yelling was coming from Cox, whom she believed was yelling at the German Shepherd dogs that were in another neighbor's yard.

{¶ 7} As A.B. began walking back to her house, she observed Cox "hanging out of the [car] window" and "screaming at [R.G.]." According to A.B., R.G. told Cox to "move along[,]" at which time Cox retorted, "Why don't you come down here and tell me that?" A.B. reached her house, retrieved her cellphone, and called 911. As she returned to the church parking lot, she noted that R.G. had come down to within a few feet of his fence line. She then observed Cox "reaching into the back seat, struggling to get something." Cox then "peeled out" and began driving toward her and R.G. A.B. thought Cox was going to drive into their yards, but he swerved and drove out of the church parking lot onto Lamme Road.

{¶ 8} A.B. testified that she remained outside of her fence in the church parking lot talking to R.G., who remained inside his yard. A.B. testified that a few minutes later she observed the car return driving up the exit drive of the church "really slow." She began yelling at R.G. that the car was returning. At that point, the vehicle accelerated and drove toward her "extremely fast." A.B. began to run toward her gate at which time she observed R.G. trip and fall to the ground. As the car approached, the door opened and "something tumbled out." Cox then exited the vehicle, picked something up from the ground, and began shooting at R.G. A.B. retreated to her outdoor shed and again called 911 when she heard more shots. As A.B. began to run toward her house, Cox shouted, "Bitch, I can shoot you too." Cox then fired in her direction. A.B. was able to get into her home at which time Cox drove away.

{¶ 9} R.G. testified that he lives on Rover Court in Moraine and that the rear of his backyard is adjacent to the church parking lot. Because he lives on a cul-de-sac, approximately 50 feet of his backyard is adjacent to A.B.'s backyard. He testified that he was outside with his dog, who was chained to the house, when he noticed "a bunch of yelling."

R.G. testified that he observed a man in a car yelling at German Shepherds in a third neighbor's yard. R.G. heard the man yell, "Shut the F up." The man, later identified as Cox, then looked over and observed R.G. Cox began yelling at R.G. and then began driving toward R.G. "at a high rate of speed, like he was going to come through the fence and hit me, but then all of a sudden he turned and went out towards Lamme Road." After Cox departed, R.G. and A.B. remained outside talking about the incident. After a few minutes, A.B. screamed that the vehicle was returning. R.G. observed the vehicle come to a stop, and then he saw Cox exit the vehicle. Cox began shooting in R.G.'s direction. R.G. testified that he jumped behind some bushes and took his shirt off so that he would blend in with a pile of wood. R.G. testified that the shots caused dirt to fly up approximately three to five feet from where he was located. R.G. observed a small dog jump out of Cox's vehicle at which point Cox stopped firing, picked up the dog, got back into his car, and drove away.

{¶ 10} The State also presented the testimony of Christopher Royalty who lives on Rover Court and is R.G.'s neighbor. At the time of the incident, Royalty was in his driveway grilling when he heard a "commotion" from R.G.'s backyard. Royalty walked to R.G.'s backyard where he observed R.G. and Cox having "words." According to Royalty, Cox threatened to "f—king kill" R.G. Royalty testified that Cox also claimed to be a sniper. Royalty observed Cox with a gun, and he saw R.G. "dive into the bushes." According to Royalty, Cox fired six to eight shots before getting into his car and driving away.

{¶ 11} Trina Anderson testified that she lives with R.G. At the time of the incident, she was inside the house when she heard two to three gunshots. She went to the kitchen window and observed R.G. on the ground near the fence line. She also observed Cox pick up a dog and fire a "couple" more shots before getting in his car and driving away.

{¶ 12} After the State completed its case, Cox testified. He testified that at the time of the incident he worked as a maintenance man for the Greater Dayton Housing Association Apartments. Cox testified that he did not have a residence and was living in his vehicle along with his dog. On the day of the incident, his dog stayed at the home of a friend while he was at work. After completing his shift, Cox drove to the friend's home, located on Lehigh Place, and retrieved his dog. He then drove to a nearby church parking lot where he parked out back in the shade of a "massive pine tree" near a picnic shelter. Cox testified that he "[j]ust sat there in my car watching videos, occasionally taking [the dog] out to go potty in the grass." According to Cox, he and his dog were out of the car when he noticed other dogs barking. He testified that the barking continued "for quite a few minutes to a point where I've just had enough of, you know, barking in my ear." He testified that he "had enough of the barking, so I told my dog to shut up." Cox testified that he then picked the dog up and returned to the car. At that point, the barking "died down," and he heard a gunshot.

{¶ 13} Cox testified that he "panicked" and began "studying the location from where it came from very carefully[.]" when he noticed a man in a white shirt who told him that he "better get out of here or I'm going to kill you and your dog." He testified that he was "upset, angry, scared" because he had been "shot several times" in the past. Cox testified that the man and the man's dog had been in the church parking lot but that both were returning to the man's fenced-in yard. While the man was returning to his yard, Cox began looking for his own handgun for "protection." He testified he found his gun, "found the cartridge in my glove box," and loaded it. He then began driving toward the man who, according to Cox, went "into some form of ambush stance behind a bush, close to that back gate[.]" Cox testified he drove toward the man because he had never been to that church and thought that was the only way to leave the area. Cox testified that he also hoped to scare the man

away. Cox “veered a little bit to the right” and stopped his car. He then rolled his car window down and told the man, “You better run or I’m going to shoot.” Cox then held his gun out of his car window so that the man could see it. When the man “refused to run,” Cox fired “three rounds into the ground.”

{¶ 14} Cox testified that he was approximately 30 feet from the fence line when he fired and that the man was an unknown distance inside the fenced area. Cox testified that he did not intend to injure the man and only wanted to “scare him off.” According to Cox, the man “finally started slowly running away.” Cox then “put the safety on [his] gun and hurried up and got out of there.” Cox testified that after the man ran, he left the area and went to his friend’s home on Lehigh Place. Cox testified that he saw a female at the “very beginning of the incident.” He claimed that she ran into her house and that he never fired a shot at her.

{¶ 15} Following trial, the jury found Cox guilty on both counts of felonious assault and the attached three-year specifications. The trial court imposed an aggregate prison sentence of eight to nine years.

{¶ 16} Cox appeals.

II. Jury Instruction on Self-Defense

{¶ 17} For his first assignment of error, Cox asserts the following:

THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT INSTRUCTED
THE JURY ON SELF-DEFENSE.

{¶ 18} Cox claims the trial court erred because it provided the jury with a “confusing and inconsistent” instruction on self-defense.

{¶ 19} Initially, we note that Cox did not object to the wording of the trial court’s jury instruction. Accordingly, we review the instruction for plain error. *State v. McShann*, 2019-Ohio-4481, ¶ 46 (2d Dist.). Plain error arises only when, “but for the error, the outcome of

the trial clearly would have been otherwise.” *State v. Long*, 53 Ohio St.2d 91 (1978), paragraph two of the syllabus. “Notice of plain error under Crim.R. 52(B) is to be taken with the utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice.” *Id.* at paragraph three of the syllabus.

{¶ 20} Jury instructions “must be given when they are correct, pertinent, and timely presented.” *State v. Joy*, 74 Ohio St.3d 178, 181 (1995). A trial court must fully and completely give jury instructions which are relevant and necessary for the jury to weigh the evidence and discharge its duty as the factfinder. *State v. Comen*, 50 Ohio St.3d 206 (1990), paragraph two of the syllabus; *State v. Portis*, 2021-Ohio-608, ¶ 46 (2d Dist.).

{¶ 21} To warrant an instruction on self-defense, there must be evidence presented that supports the conclusion that the defendant used force to defend himself. R.C. 2901.05(B)(1). If the defendant puts forth evidence that he acted in self-defense, the prosecution must prove beyond a reasonable doubt that the defendant did not use the force in self-defense. R.C. 2901.05(B)(1); *State v. Lovett*, 2022-Ohio-1693, ¶ 40 (2d Dist.).

{¶ 22} The elements of a self-defense claim differ depending on whether the accused employed deadly or non-deadly force to defend against their perceived assailant. *State v. Stevenson*, 2018-Ohio-5140, 2018 WL 6721241, ¶ 33 (10th Dist.). In the present case, there is no doubt that Cox employed deadly force because, as he testified, he fired a handgun. See *State v. Dale*, 2013-Ohio-2229, ¶ 15 (2d Dist.) (“The use of a gun constitutes the use of deadly force.”); R.C. 2901.01(A)(2) (defining “[d]eadly force” as “any force that carries a substantial risk that it will proximately result in the death of any person”).

{¶ 23} 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. *State v. Messenger*, 2022-Ohio-4562, ¶ 14, citing *State v. Barnes*, 94 Ohio St.3d 21, 24 (2002).

{¶ 24} Cox challenges the following portion of the trial court's instruction:

The Defendant is allowed to use deadly force in self-defense. The State must prove beyond a reasonable doubt that the Defendant, Robert Cox, when using deadly force, did not act in self-defense. To prove the Defendant's use of deadly force was not in self-defense, the State must prove beyond a reasonable doubt at least one of the following:

Number one, the Defendant was at fault in creating the situation that gave rise to his use of deadly force.

Or number two, Defendant did not have reasonable grounds to believe that he was in immediate danger of death or great bodily harm.

Or number three, the Defendant did not have an honest belief, even if mistaken, that he was in immediate danger of death or great bodily harm.

Or number four, the Defendant used unreasonable force.

In deciding whether the State has proven beyond a reasonable doubt that the Defendant did not act in self-defense, you need not be unanimous as to which of the four were proven. As long as each juror has concluded that the State has proven beyond a reasonable doubt any one of the four listed above.

. . .

At fault for creating the situation. The Defendant did not act in self-defense if the State proved beyond a reasonable doubt that the Defendant was

at fault in creating the situation that could have resulted in an injury to R.G. and/or A.B.

Defendant was at fault in creating the situation if the Defendant was the initial aggressor and if you find one of the following was true:

Number one, R.G. and/or A.B. did not escalate the situation by being the first to use or attempt to use deadly force;

or number two, the Defendant provoked R.G. and/or A.B. into using force;

or the Defendant did not withdraw from the situation;

or the Defendant withdrew from the situation but did not inform or reasonably indicate by words or actions to R.G. and/or A.B. of his withdrawal.

. . .

In determining whether the Defendant in using force in self-defense reasonably believed that the force was necessary to prevent injury, loss, or risk of life or safety, you may not consider the possibility of retreat by the Defendant.

{¶ 25} We review a trial court's jury instructions for an abuse of discretion. *State v. Portis*, 2021-Ohio-608, ¶ 47 (2d Dist.), citing *State v. Jones*, 2015-Ohio-5029, ¶ 13 (12th Dist.). “An appellate court may not reverse a conviction in a criminal case based upon jury instructions unless ‘it is clear that the jury instructions constituted prejudicial error.’” *Portis* at ¶ 47. We must “review the instruction[] as a whole, and, if taken in [its] entirety, the instruction[] fairly and correctly state[s] the law applicable to the evidence presented at trial, reversible error will not be found premised upon the possibility that the jury may have been misled.” *Id.*

{¶ 26} Significantly, the self-defense instruction was consistent with the self-defense instruction set forth at 2 Ohio Jury Instructions, Section CR 421.21(1). (OJI) While the instructions set forth in OJI are not legally binding authority, compliance with a suggested OJI instruction is significant when determining whether an instruction was accurate. See *State v. Aekins*, 2023-Ohio-322, ¶ 118 (10th Dist.); *State v. Smith*, 2023-Ohio-3015, ¶ 46 (3d Dist.).

{¶ 27} Having reviewed the self-defense instruction, which the jury was presumed to have followed, we have no reason to believe that the jury was confused or misled when it rejected Cox's claim of self-defense. Thus, we can find no error, let alone plain error, that would lead us to conclude that the court erred in instructing the jury regarding self-defense.

{¶ 28} The first assignment of error is overruled.

III. Lesser-Included and Inferior-Degree Offenses

{¶ 29} Cox's second assignment of error provides as follows:

THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT FOUND THAT
COX WAS NOT ENTITLED TO A JURY INSTRUCTION ON AGGRAVATED
MENACING AND/OR AGGRAVATED ASSAULT.

{¶ 30} Cox asserts the trial court erred in failing to present the jury with instructions on aggravated menacing and aggravated assault.

{¶ 31} "In deciding whether to provide a lesser-included or inferior-offense instruction, a trial court must find sufficient evidence to allow a jury to reasonably reject the greater offense and to find a defendant guilty on a lesser-included or inferior-degree offense." *State v. Newby*, 2024-Ohio-1391, ¶ 69 (2d Dist.), citing *State v. Ferrell*, 2020-Ohio-6879, ¶ 35 (10th Dist.). "When the evidence pertaining to a lesser-included offense or inferior-degree offense meets this test, a trial court must instruct the jury on the lesser-included or inferior-

degree offense.” *Id.*, citing *State v. Conley*, 2015-Ohio-2553, ¶ 32 (2d Dist.). As noted by the Ohio Supreme Court, when conducting this analysis, the evidence must be viewed in a light most favorable to the defense. *State v. Wine*, 2014-Ohio-3948, ¶ 21. “When reviewing the trial court’s jury instructions, the proper standard of review is whether the trial court’s decision to give or exclude a particular jury instruction was an abuse of discretion under the facts and circumstances of the case.” (Citation omitted.) *State v. Fair*, 2011-Ohio-4454, ¶ 65 (2d Dist.).

{¶ 32} We begin with Cox’s claim that the trial court erred by refusing to give an instruction on aggravated menacing. Courts have held that aggravated menacing is not a lesser-included offense of felonious assault. (Citations omitted.) *State v. Taylor*, 2013-Ohio-3699, ¶ 38 (10th Dist.). But Cox cites to *State v. Guddy*, 2002-Ohio-3102 (8th Dist.), for the proposition that aggravating menacing “may constitute a lesser offense” as an inferior degree offense of felonious assault. *Id.* at ¶ 12. An offense is an inferior degree of the indicted offense when its elements are identical to or contained within the indicted offense, except for one or more additional mitigating elements. *Guddy* at ¶ 12-13; *State v. Stargell*, 2016-Ohio-5653, ¶ 40 (2d Dist.).

{¶ 33} We find *Guddy* distinguishable. The *Guddy* inferior offense decision was based on the following reasoning: “the elements of aggravated menacing and felonious assault overlap for the elements of (1) knowingly and (2) serious physical harm to another. Furthermore, aggravated menacing contains the additional mitigating element of apprehension on the part of the victim. Accordingly, aggravated menacing is an inferior degree offense of the indicted offense of felonious assault.” *Id.* at ¶ 15.

{¶ 34} Felonious assault, as charged in this case, is proscribed by R.C. 2903.11(A)(2) which states that “[n]o person shall knowingly . . . [c]ause or attempt to cause physical harm to another . . . by means of a deadly weapon or dangerous ordnance.” R.C. 2903.21 sets

forth the offense of aggravated menacing and provides that “[n]o person shall knowingly cause another to believe that the offender will cause serious physical harm to the person[.]” R.C. 2903.21(A). The elements of the offenses are not identical as aggravated menacing involves serious physical harm whereas felonious assault under section (A)(2) of R.C. 2903.11 does not. The trial court did not abuse its discretion when it declined to give an aggravated menacing instruction.

{¶ 35} We next turn to the claim that the trial court should have instructed the jury on aggravated assault. Aggravated assault is proscribed by R.C. 2903.12 which, in relevant part states:

(A) No person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, shall knowingly:

. . .

(2) Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code.

{¶ 36} Cox is correct that “aggravated assault is an inferior-degree offense of felonious assault.” *State v. Newby*, 2024-Ohio-1391, ¶ 70 (2d Dist.). The elements of the offenses are identical except that aggravated assault requires proof of the mitigating factor that the defendant “acted under the influence of sudden passion or in a fit of rage brought about by serious provocation.” *Id.* However, in this case, we conclude the trial court did not abuse its discretion in denying the requested instruction.

{¶ 37} As set forth above, Cox claimed he was acting in self-defense. “This court has recognized that a self-defense argument generally is inconsistent with a serious-provocation theory.” *Newby* at ¶ 72, quoting *State v. Dixon*, 2022-Ohio-3157, ¶ 22 (2d Dist.), citing *State v. Brown*, 2018-Ohio-3068, ¶ 47 (2d Dist.). Thus, “self-defense and aggravated assault . . . are incompatible in most cases.” *Id.* But we did “recognize[] in *Brown* that the two theories conceivably might be compatible where a defendant is found to have exceeded the degree of force necessary to defend himself because he acted out of passion or rage.” *Dixon* at ¶ 22. “The test for whether a serious provocation occurred and whether a defendant acted under the influence of sudden passion or in a fit of rage includes objective and subjective components.” *Newby* at ¶ 71, quoting *Dixon* at ¶ 21. “The provocation must be sufficient to arouse an ordinary person beyond the power of his control, and the defendant in fact must have acted under the influence of sudden passion or in a fit of rage.” *Id.* Fear, by itself, is “insufficient to demonstrate the kind of emotional state necessary to constitute sudden passion or fit of rage.” (Citations omitted.) *Newby* at 71.

{¶ 38} Relying solely on Cox’s testimony, we conclude the trial court did not abuse its discretion in denying the requested instruction. Assuming that hearing a gunshot and seeing a man holding a gun while telling Cox to leave the area is sufficient to arouse the passions of an ordinary person, Cox’s testimony does not support a finding that he actually acted under the influence of a sudden passion or in a fit of rage. Specifically, Cox testified that after taking the time to carefully study the area and search for the location of the gunshot, he then had to look around his car for his own handgun. After he acquired his gun, he looked for a bullet in the glove compartment which he then loaded into the firearm. Next, Cox began driving in R.G.’s direction but veered and stopped his vehicle. He then rolled his window down and spoke to R.G. At that point, he brandished his gun out of the window. Cox then

waited to determine whether R.G. would run away. Only after seeing that R.G. failed to run did Cox fire his gun into the ground.

{¶ 39} This testimony indicates that Cox's actions were calculated and that he deliberately took steps to try to get R.G. to run away before proceeding to the step of firing his gun. There is no testimony to support a finding that he, due to passion or rage, exceeded the degree of force necessary to defend himself.

{¶ 40} The second assignment of error is overruled.

IV. Manifest Weight

{¶ 41} The third assignment of error states:

THE MANIFEST WEIGHT OF THE EVIDENCE SUPPORTED COX'S SELF-
DEFENSE CLAIMS.

{¶ 42} Cox contends the jury's verdict is against the manifest weight of the evidence as his testimony established that he acted in self-defense.

{¶ 43} The Ohio Supreme Court has held that the State's self-defense burden is "subject to a manifest-weight review on appeal." *State v. Messenger*, 2022-Ohio-4562, ¶ 27. When an appellate court evaluates whether a conviction is against the manifest weight of the evidence, "[t]he court, reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of the 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." *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983). A case should not be reversed as being against the manifest weight of the evidence except "in the exceptional case in which the evidence weighs heavily against the conviction." *Id.*

{¶ 44} As noted by the Eighth District Court of Appeals in *State v. Campbell*, 2024-Ohio-1693 (8th Dist.):

“A self-defense claim is generally an issue of credibility.” *State v. Lawrence*, 11th Dist. Lake No. 2022-L-110, 2023-Ohio-3419, 2023 WL 6210915, ¶ 41, quoting *State v. Olsen*, 11th Dist. Ashtabula No. 2022-A-0071, 2023-Ohio-2254, 2023 WL 4290216, ¶ 57. “Disputes in credibility for the purposes of evaluating self-defense are best resolved by the trier of fact.” *Lawrence* at *id.*, quoting *State v. Bentley*, 2023-Ohio-1792, 218 N.E.3d 989, ¶ 24 (11th Dist.). “It has been held that ‘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’ and rejected the defendant’s claim of self-defense.” *Lawrence* at *id.*, quoting *Bentley* at *id.*, quoting *State v. Messenger*, 2021-Ohio-2044, 174 N.E.3d 425, ¶ 49 (10th Dist.). “When weighing witness testimony supporting a claim of self-defense, the trier of fact is ‘free to believe or disbelieve the testimony of the witnesses’ and ‘is in the best position to take into account inconsistencies, along with the witnesses’ manner and demeanor, and determine whether the witnesses’ testimony is credible.” *Lawrence* at *id.*, quoting *Bentley* at *id.*, citing *State v. Haney*, 11th Dist. Lake No. 2012-L-098, 2013-Ohio-2823, 2013 WL 3367005, ¶ 43.

Id. at ¶ 32; accord *State v. Jamil*, 2023-Ohio-4671, ¶ 78 (10th Dist.).

{¶ 45} We conclude the jury did not lose its way in finding that the State disproved beyond a reasonable doubt one or more of the self-defense elements. As noted, both R.G. and A.B. testified that Cox was the initial aggressor, that he left the scene, and that he then returned to the scene at which time he opened fire upon them. Further, R.G. denied having

a gun at the time of the incident. The testimony of A.B. and Christopher Royalty corroborated his denial. We cannot say that their testimony was inherently incredible so as to cast doubt upon the jurors' decision to lend more credence to them than to Cox's own testimony.

{¶ 46} Cox's third assignment of error is overruled.

V. Conclusion

{¶ 47} All of Cox's assignments of error being overruled, the judgment of the trial court is affirmed.

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EPLEY, J., and HANSEMAN, J., concur.