

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 116046
	:	
v.	:	
	:	
JULIUS GILL,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: October 22, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-24-697138-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Chloe Robinson, Assistant Prosecuting
Attorney, *for appellee*.

Sheila M. Sexton, *for appellant*.

MICHAEL JOHN RYAN, J.:

{¶ 1} Defendant-appellant Julius Gill (“Gill”) appeals from his judgment of conviction after a jury found him guilty of aggravated robbery and robbery. After a thorough review of the facts and pertinent law, we affirm.

Factual and Procedural History

{¶ 2} In November 2024, Gill was charged in a three-count indictment as follows: Count 1, aggravated robbery, with one- and three-year firearm specifications; Count 2, robbery, with one- and three-year firearm specifications; and Count 3, having weapons while under disability. The charges arose from a November 3, 2024 incident at a men’s shelter in Cleveland.

{¶ 3} The case proceeded to a jury trial at which the State presented the following four witnesses: (1) Stanley Smith (“Smith”), a supervisor at the shelter; (2) Cleveland police officer Claire Fredriks (“Officer Fredriks”), who responded to the scene; (3) the victim; and (4) Cleveland police detective Eric Drost (“Detective Drost”). The defense did not present any witnesses.

{¶ 4} At the time of the incident, Smith had been working at the shelter for seven years. In addition to supervising the staff members, Smith also monitored the building for safety and made sure that the clients were following the rules of the shelter. There were several surveillance cameras outside the building, and Smith would routinely monitor them.

{¶ 5} Smith testified that he knew Gill prior to the incident because Gill had been a client at the shelter. Smith also knew Gill’s brother, who had previously worked at the shelter. According to Smith, Gill and his brother did not look alike.

{¶ 6} On the day of the incident, Gill had been inside the shelter and was acting verbally aggressively toward other clients. At one point, Gill exited the cafeteria, went to the sleeping quarters, and looked in one particular sleeping “cube.”

Smith determined that the sleeping cube had been assigned to the victim. Gill exited the building, and Smith began monitoring him from one of the outside cameras.

{¶ 7} Smith testified that he could see Gill's brother was parked outside in a dark-colored vehicle. According to Smith, it was not an unusual occurrence for the brother to come back to the shelter and "hang around" since he had been terminated. Smith observed Gill walking back and forth from where his brother's car was parked on the street to the front of the shelter. The recording of this timeframe was neither provided to the defense nor played for the jury at trial.

{¶ 8} At one point, Smith observed that the victim was in the front of the shelter. Gill approached the victim, and the two appeared to be having a conversation. Smith hoped that they were "talking out" whatever their apparent disagreement was, but Gill pulled a gun on the victim and "waved it" in the victim's face. The recording shows the victim retrieving something from his pocket and giving it to Gill. Gill returned to his brother's vehicle and got in, and the vehicle was driven away. Smith called the police. The non-audio recording of the interaction and confrontation between Gill and the victim was provided to the defense during discovery and played for the jury at trial. Smith identified Gill in court as the person he saw on the surveillance tape pull the gun on the victim.

{¶ 9} The victim testified that he was returning to the shelter for the evening after spending the day with his family celebrating his birthday. As he was walking to go into the shelter, Gill approached him and the two got into an argument about a woman. Gill pulled a gun on the victim and told him he would shoot him if he

moved. The victim testified that Gill had “cocked” the gun and he (the victim) believed the gun was loaded and a bullet was ready to be fired. The argument about the woman continued and eventually Gill told the victim to “run his pockets.” The victim testified that Gill’s command to “run his pockets” meant for the victim to give Gill whatever cash he had in his pockets, which is what the victim did. The State showed the victim the surveillance video, and he identified himself and Gill on it. The victim also made an in-court identification of Gill as the man who robbed him at gunpoint.

{¶ 10} The victim testified that he was robbed of “a couple hundred dollars” and admitted that he initially told Officer Fredriks that he was robbed of \$1,000. The victim testified that he was under the stress of the situation when he gave that figure to the police.

{¶ 11} Detective Drost testified about the photo lineup that was administered by another Cleveland police detective. The victim identified Gill from the lineup as the man who had robbed him. Detective Drost viewed the surveillance footage from the men’s shelter and testified that when he arrested Gill, Gill was wearing the same clothes as at the time of the robbery. Detective Drost testified that a weapon was never recovered.

{¶ 12} At the close of the State’s case, Gill made a motion to strike Smith’s testimony on the ground that it violated the best evidence rule and the rule of completeness. Specifically, the defense contended that the State violated the rule by not providing the entirety of the recording from outside of the shelter. The State

informed the court that the video shown, and given to the defense, was the only video it had. The trial court denied Gill's motion to strike.

{¶ 13} The defense also made a Crim.R. 29 motion for judgment of acquittal on the ground that the State failed to prove that Gill was the suspect; the trial court denied the motion. The defense rested without presenting any witnesses and renewed its Crim.R. 29 motion, citing, in addition to identification, the operability of the firearm. The trial court again denied the motion.

{¶ 14} After its deliberations, the jury found Gill guilty of Counts 1 and 2, aggravated robbery and robbery, respectively, and not guilty of the attendant one- and three-year firearm specifications. The jury also found Gill not guilty of Count 3, having weapons while under disability. The trial court sentenced Gill to a prison term of eight to ten years. Gill now raises the following three assignments of error for our review:

- I. The trial court erred to the prejudice of the defendant in overruling defendant[']s motion to strike the testimony and identification of a witness who observed an incomplete video.
- II. Appellant's conviction was against the manifest weight of the evidence as the State's case was not supported by competent credible evidence.
- III. The State failed to present sufficient evidence to prove each and every element of the offense of aggravated robbery and robbery beyond a reasonable doubt.

Law and Analysis

{¶ 15} In his first assignment of error, Gill contends that the trial court erred by denying his request to strike shelter supervisor Smith's testimony and identification of Gill as the perpetrator. We disagree.

{¶ 16} "The trial court has broad discretion in the admission of evidence, and unless it has clearly abused its discretion and the defendant has been materially prejudiced thereby, an appellate court should not disturb the decision of the trial court." *State v. Obermiller*, 2016-Ohio-1594, ¶ 61. An abuse of discretion occurs when a court exercises its judgment in an unwarranted way regarding a matter over which it has discretionary authority. *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35. In other words, "[a] court abuses its discretion when a legal rule entrusts a decision to a judge's discretion and the judge's exercise of that discretion is outside of the legally permissible range of choices." *State v. Hackett*, 2020-Ohio-6699, ¶ 19.

{¶ 17} According to Gill, the trial court admitted Smith's testimony and his identification on the surveillance video of Gill as the perpetrator in violation of the best evidence rule and the rule of completeness. Specifically, the portion of the video that Smith testified to, and that was admitted into evidence, showed only Gill and the victim's encounter in the moments leading up to the robbery. As Smith testified to, he had been watching Gill and his brother on video surveillance earlier, but the defense did not have that recording and it was not introduced at trial. The defense also contends that the video was edited.

{¶ 18} The best evidence rule, as codified in Evid.R. 1002, states that “[t]o prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules[.]” The rule rests on the fact that an original writing is more reliable, complete, and accurate as to its contents and meaning. *United States v. Holton*, 116 F.3d 1536, 1545 (D.C. Circ. 1997).

{¶ 19} It has been explained that

[t]he rule applies only when a party attempts to prove the contents of a writing or recording. Typically, this occurs (1) when the event to be proved is a written transaction, (2) when a party chooses a written method of proof, or (3) a witness’s knowledge derives solely from having read a document.

2 Paul C. Giannelli and Barbara Snyder, *Baldwin’s Ohio Practice Evidence*, Section 1002.4 (3d Ed. 2010).

{¶ 20} The rule of completeness is set forth in Evid.R. 106. The rule states that “[w]hen a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which is otherwise admissible and which ought in fairness to be considered contemporaneously with it.” *Id.*

{¶ 21} First, there is no merit to Gill’s claim that the video was edited. Smith specifically testified that the video was a true and accurate depiction of the incident in question. Regarding the best evidence rule, Smith testified based on his personal knowledge, he was monitoring the video in real time. Further, Smith knew both Gill and the victim prior to the incident and was able to identify both of them on the

video. Smith also made an in-court identification of Gill. Moreover, the video showed the incident at hand — the robbery. The event was not a written transaction, it was not proved through a written method, and Smith’s knowledge was based on his personal observations, not by reading a document. Smith’s testimony and the video evidence did not violate the best evidence rule.

{¶ 22} Further, because the video was not edited, Smith’s testimony was based on his personal knowledge, and, the video captured the complete incident at hand, there was no violation of the rule of completeness.

{¶ 23} The trial court did not abuse its discretion by allowing Smith’s testimony and the admission of the video. The first assignment of error is overruled.

{¶ 24} For his second assignment of error, Gill challenges his conviction as being against the manifest weight of the evidence.

{¶ 25} In considering a manifest-weight challenge, an appellate 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.) *State v. Reillo*, 2026-Ohio-2701, ¶ 26.

{¶ 26} Gill cites the following as the basis for his manifest-weight-of-the-evidence challenge: (1) conflicting testimony about the clothing Gill was wearing on the evening of the incident; (2) the victim’s, a convicted felon, credibility; (3) lack of

testimony from a responding officer and a witness to the incident; and (4) the lack of recovery of the gun.

{¶ 27} The evidence supports the conviction. The jury viewed the surveillance video, which as Smith testified to, showed Gill approach the victim, Gill brandish a gun and point it at the victim, and the victim hand over to Gill something he had retrieved from his pocket. Testimony from another responding officer would have been cumulative to Officer Fredriks's testimony and, likewise, testimony from a witness on scene would have been cumulative to Smith's and the victim's testimonies and the video evidence.

{¶ 28} Regarding conflicting testimony about Gill's clothing and the issue of the victim's credibility, as the Supreme Court of Ohio recently clarified, generally, "appellate courts must defer" to the jury's witness-credibility determination, because the jury "is in the sole position to believe or disbelieve all or any of the testimony presented at trial." *Reillo*, 2026-Ohio-2701, at ¶ 32, 38. The jury was aware of the conflicting testimony and the victim's credibility. "While the jury may take note of the inconsistencies and resolve or discount them accordingly . . . such inconsistencies do not render defendant's conviction against the manifest weight or sufficiency of the evidence." *State v. Mann*, 2011-Ohio-5286, ¶ 37 (10th Dist.), quoting *State v. Nivens*, 1996 Ohio App. LEXIS 2245, *7 (10th Dist. May 28, 1996).

{¶ 29} This is not the exceptional case requiring a new trial. The conviction was not against the weight of the evidence. Gill's second assignment of error is overruled.

{¶ 30} In his third assignment of error, Gill contends that the State failed to present sufficient evidence to sustain the conviction.

{¶ 31} In a sufficiency-of-the-evidence review, “an appellate court does not ask whether the evidence should be believed but, rather, whether the evidence, ‘if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt.’” *State v. Pountney*, 2018-Ohio-22, ¶ 19, quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus.

{¶ 32} Gill was convicted of aggravated robbery under R.C. 2911.01(A)(1) and of robbery under R.C. 2911.02(A)(2). Under R.C. 2911.01(A)(1), the State had to prove that in attempting or committing a theft offense against the victim or in fleeing immediately after the attempt or offense, Gill had a deadly weapon on or about his person or under his control and he either displayed the weapon, brandished it, indicated that he possessed it, or used it. Under R.C. 2911.02(A)(2), the State had to prove that in attempting or committing a theft offense against the victim or in fleeing immediately after the attempt or offense, Gill did inflict, attempt to inflict, or threaten to inflict physical harm on the victim.

{¶ 33} According to Gill, the evidence was insufficient to sustain the convictions because (1) no weapon was recovered, (2) “[t]he testimony failed to describe any gun and the amount of time of the encounter did not present an opportunity to identify the gun[,]” (3) “[t]he evidence at trial failed to prove that the firearm was operable or a deadly weapon capable of inflicting death[,]” and (4) based

on the jury's not guilty verdict on the firearm specifications, it did not believe Gill had a gun. (Appellant's brief, p. 20-21.) We are not persuaded by Gill's contentions.

{¶ 34} When determining whether a defendant possessed a deadly weapon, the factfinder "is entitled to draw all reasonable inferences from the evidence presented." *State v. Vondenberg*, 61 Ohio St.2d 285 (1980), syllabus. Further, the State need not produce the weapon in order to secure an aggravated robbery conviction. *Id.* at 288-289.

{¶ 35} Instead, "the factfinder may infer that the defendant possessed a deadly weapon based on his [or her] words and conduct." *State v. Knight*, 2004-Ohio-1941, ¶ 18 (2d Dist.); *see also State v. Watkins*, 2004-Ohio-6908, ¶ 23 (8th Dist.) ("[T]he victim's actions in acquiescing to being robbed indicate . . . his belief that he was being held up at gunpoint."). As the Supreme Court of Ohio has held, to require the State to produce the gun at trial in an aggravated robbery conviction "would emasculate R.C. 2911.01, and reward those armed robbers who have the fortune to escape the scene of the crime, and the foresight to destroy or conceal the weapons before they are apprehended." *Vondenberg* at 289.

{¶ 36} Gill cites *State v. Hammond*, 2013-Ohio-2466 (8th Dist.), in support of his sufficiency argument. *Hammond* is distinguishable from this case. In *Hammond*, it was established that the weapon the defendant used during the robbery was a toy gun. This court noted that, although toy guns and BB guns could be deadly weapons in some circumstances, there has to be some evidence, "testimonial or otherwise" to show that the gun was capable of being "used as a

deadly bludgeon, or capable of inflicting death in other manners.” *Id.* at ¶ 23. Such testimony or evidence was missing in *Hammond*.

{¶ 37} Here, however, the State presented sufficient evidence that the gun Gill used during the incident was a deadly weapon. Smith, a supervisor at the shelter, was watching the encounter between Gill and the victim in real time. Smith saw Gill pull a gun on the victim and “wave it” in the victim’s face. The victim then retrieved something from his pocket and gave it to Gill. Smith immediately called the police.

{¶ 38} Further, the victim testified that Gill pulled a gun on him and told him he would shoot him if he moved. The victim testified that Gill had “cocked” the gun and he (the victim) believed the gun was loaded and a bullet was ready to be fired. Thus, the State presented sufficient evidence for the jury to infer that Gill possessed a deadly weapon based on his words and conduct.

{¶ 39} We are also not persuaded by Gill’s contention that the evidence was insufficient to support the convictions because the jury found him not guilty of the firearm specifications.

{¶ 40} “Under Ohio law, the several counts of an indictment containing more than one count are not interdependent, and an inconsistency in a verdict does not arise out of inconsistent responses to different counts, but only arises out of inconsistent responses to the same count.” *State v. Vaughn Hardware*, 2010-Ohio-4346, ¶ 15 (8th Dist.), quoting *State v. Houser*, 1996 Ohio App. LEXIS 2285, *21-*22 (8th Dist. May 30, 1996).

{¶ 41} This court has consistently held that a not guilty verdict on firearm specifications does not present a fatal inconsistency with a guilty verdict for the principal charge. See *State v. Maldonado*, 2021-Ohio-1724, ¶ 48-49 (8th Dist.); *State v. Hollins*, 2020-Ohio-4290, ¶ 21 (8th Dist.), citing *State v. Jackson*, 2018-Ohio-2131, ¶ 8 (8th Dist.); *State v. Williams*, 2011-Ohio-5483, ¶ 41 (8th Dist.); *Hardware*, at ¶ 17, citing *State v. Fair*, 2008-Ohio-930, ¶ 26 (8th Dist.). As this court explained in *Fair*, “[i]t is entirely proper for the jury to find appellant guilty of aggravated robbery without a firearm specification.” *Id.*

{¶ 42} The State presented sufficient evidence to support the convictions. The third assignment of error is overruled.

{¶ 43} Having found no merit to any assignment of error, the trial court’s 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 conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

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

MICHAEL JOHN RYAN, JUDGE

MICHELLE J. SHEEHAN, A.J., and
DEENA R. CALABRESE, J., CONCUR