

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-150588
Plaintiff-Appellee,	:	TRIAL NO. 15CRB-15787
vs.	:	<i>JUDGMENT ENTRY.</i>
TIFFANY HOLLINESS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Tiffany Holliness was charged with menacing in violation of R.C. 2903.22.

At the bench trial, Alan Relthford testified that he was taking his daughter to a church festival in the Price Hill neighborhood and had parked his car in an available spot on the street. As he and his daughter were exiting from the car, Holliness approached him and threatened to slash his tires if he did not move his car. Apparently, Holliness was saving the parking spot for her husband, who was soon to be returning from the grocery store. Relthford immediately called the police. Relthford, who has a concealed-carry license, testified that Holliness, who noticed his gun while he was on the phone with the police, then threatened to get a gun. After the police arrived, Holliness was cited for menacing.

The trial court found Holliness guilty, noting that Relthford must have believed that Holliness was going to slash his tires because he called the police immediately after she threatened to do so.

Holliness now appeals, bringing forth two assignments of error.

In her first assignment of error, Holliness contests the weight and sufficiency of the evidence underlying her conviction.

In a challenge to the sufficiency of the evidence, the question is whether after viewing the evidence in the light most favorable to the state, any rational trier of fact could have found all the essential elements of the crime proved beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus. When considering a challenge to the weight of the evidence, the court must examine the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflict in the evidence, the trier of fact clearly lost its way and created a manifest miscarriage of justice. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997).

R.C. 2903.22(A) provides that “[n]o person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person’s unborn, or a member of the other person’s immediate family.” Holliness argues that the state did not prove that Relthford believed that Holliness would cause physical harm to his property or person. But Relthford testified that he immediately called the police after Holliness threatened to slash his tires. Viewing this fact in a light most favorable to the state, it is reasonable to conclude that Relthford believed that Holliness was going to follow through on her threat. Thus, there was sufficient evidence to support the menacing conviction.

Further, the court's finding of guilty is not against the manifest weight of the evidence. Although Holliness denied that she had threatened to slash Relthford's tires, the responding police officer testified at trial that Holliness, when confronted with Relthford's claim that she had threatened to slash his tires, had not denied it. Accordingly, the first assignment of error is overruled.

In her second assignment of error, Holliness contends that she was denied due process because she was not given notice of the charge against her. Under this assignment, Holliness argues that she was charged with threatening harm to Relthford's property, but the court had only found her guilty of menacing based on the fact that she had threatened harm to Relthford and his daughter by implying that she had a gun. Thus, she maintains that she was convicted of a crime that she was not charged with—menacing by threatening harm to a person.

Because Holliness did not object prior to trial regarding suspected defects in the complaint, any alleged error in the complaint is limited to a plain-error review on appeal. *State v. Horner*, 126 Ohio St.3d 466, 2010-Ohio-3830, 935 N.E.2d 26.

Notice of plain error is to be taken with the utmost caution, under exceptional circumstances, and only to prevent a manifest miscarriage of justice. *State v. Long*, 53 Ohio St.2d 91, 372 N.E.2d 804 (1978), paragraph three of the syllabus. Plain error does not exist unless it can be said that, but for the error, the outcome of the proceeding clearly would have been otherwise. *State v. Moreland*, 50 Ohio St.3d 58, 62, 552 N.E.2d 894 (1990).

The purpose of a charging instrument, such as a criminal complaint, is to give the defendant adequate notice of the charge. *See State v. Buehner*, 110 Ohio St.3d 403, 2006-Ohio-4707, 853 N.E.2d 1162, ¶ 7. A criminal complaint must contain, in relevant part, "a written statement of the essential facts constituting the offense

charged,” and in addition, “shall also state the numerical designation of the applicable statute or ordinance.” *See* Crim.R. 3.

Here, the complaint stated the numerical designation of the statute Holliness was charged with violating, R.C. 2903.22, and specified that Holliness “knowingly cause[d] Allen Relthford to believe that she would cause physical harm to victim’s vehicle tires.” Because the complaint stated the numerical designation of the statute, Holliness was put on notice that she was charged with threatening physical harm to Relthford’s person and property as the statute does not set forth separate menacing crimes based on whether the threat of harm was to property or a person.

But even if we were to presume there was a defect in the complaint, it does not amount to plain error. There is sufficient evidence in the record to demonstrate that Holliness was guilty of menacing under R.C. 2903.22 by threatening harm to Relthford’s property. Although Holliness maintains that the trial court relied only on her threat of personal harm in finding her guilty, this is not demonstrated in the record. The court found that Relthford had felt threatened, and the court based that finding on the fact that Relthford had called the police. Notably, Relthford called the police after Holliness had threatened his property. Thus, Holliness was convicted of what she was charged with—menacing by causing the victim to believe that Holliness would physically harm his property.

The second assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., MOCK and STAUTBERG, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

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To the clerk:

Enter upon the journal of the court on July 13, 2016  
per order of the court \_\_\_\_\_.  
Presiding Judge