

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

STATE OF OHIO,	:	APPEAL NO. C-060985
	:	TRIAL NO. C-06CRB-24167
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
KIA WEBB,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Kia Webb appeals her conviction for domestic violence in violation of R.C. 2919.25(A). In her sole assignment of error, Webb argues that her conviction was not supported by sufficient evidence. We disagree.

At trial, the state presented evidence that Webb had kicked her nine-year-old son Raquon in the back of his head while he was sitting on a stairway, because he had disobeyed her order to leave their house. Webb had asked her son to leave so that she could talk to her sister in private about a misunderstanding that had occurred earlier in the day that left Raquon, his younger brother, and his older cousin locked out of the house.

After his mother struck him, Raquon stormed out of the house, yelling as he went up the street. Webb then called Raquon into the house and chased him around the living

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

room while whipping him with a leather belt. When Raquon fell into a chair, his mother continued the whipping. The whipping left welt marks on Raquon.

Raquon testified that it had hurt when his mother kicked him in the head, and that his mother had struck him with the belt multiple times on his arm, shoulder, and head.

Webb's sister Niki Webb testified that she had witnessed part of the whipping and that she had pleaded with her sister to stop. She claimed that Raquon was crying during the whipping. She reluctantly left the house at Webb's request and then informed Webb's mother and Raquon's father of the whipping.

Niki returned to her sister's house approximately 10 to 15 minutes later. At that time, Raquon was in his bedroom, but he was still crying. Webb was arguing with her mother, who had just arrived at the house. Niki heard Webb ask her mother to leave; her mother responded that she would not leave unless Raquon left with her. Niki then observed Webb calling the police.

Springfield Township Police Officer Chris Anderson arrived at Webb's house shortly after the police received Webb's call. Anderson investigated and observed that Raquon was crying and had welt marks on his back and right shoulder. Anderson photographed Raquon's injuries. When the photograph was offered into evidence at trial, Anderson indicated that the injuries did not show up well on the photograph.

Anderson testified that when he had asked Webb about Raquon's injury during his investigation, she specifically denied kicking Raquon in the head while he sat on the stairs but admitted hitting him in the head and whipping him with a belt to discipline him for not leaving the house and for talking back to her when she asked him to leave.

At trial, Webb denied making any contact with the back of Raquon's head. Webb admitted to repeatedly whipping Raquon and claimed that she had been disciplining Raquon for talking back to her in a loud voice after she had asked him to leave the house.

The sufficiency of the state's evidence is a question of the adequacy of that evidence.² To make a sufficiency determination, we view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found the essential elements proved beyond a reasonable doubt.³

The domestic-violence statute, R.C. 2929.25, provides that “no person shall knowingly cause or attempt to cause physical harm to a family or household member.” The Ohio legislature and courts have recognized a parent's right to discipline his or her child with reasonable corporal punishment.⁴ Thus, proper and reasonable parental discipline is a defense to a domestic-violence charge.⁵

Generally, whether any particular conduct constitutes proper and reasonable parental discipline is a question that must be determined from the totality of the relevant facts and circumstances. This court has held that “[w]ithout observable injury, or without risk of serious physical harm, there can be no domestic-violence conviction for a parent as a result of striking a child.”⁶ Certainly a parental act exceeds proper and reasonable parental discipline and becomes domestic violence where the act creates “a risk of death, serious injury, or substantial pain.”⁷

Considering the age of Raquon, the nature of his misconduct, the seriousness of his physical injury, the considerable pain inflicted, and the form of the discipline, we hold that Webb's conviction for domestic violence was supported by sufficient, credible evidence. Accordingly, we overrule the assignment of error and affirm the trial court's judgment.

² See *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

³ *Id.* at 386.

⁴ See R.C. 2919.22(B); *State v. Suchomski* (1991), 58 Ohio St.3d 74, 75, 567 N.E.2d 1304.

⁵ See *Suchomski*, *supra*, at 75; *State v. Adaranijo*, 153 Ohio App.3d 266, 2003-Ohio-3822, 792 N.E.2d 1138.

⁶ *Adaranijo*, *supra*, at ¶13.

⁷ See *Adaranijo*, at ¶12, citing *State v. Hause* (Aug. 6, 1999), 2nd Dist. No. 17614.

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Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R.24.

HILDEBRANDT, P.J., HENDON and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 28, 2007
per order of the Court _____.
Presiding Judge