

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

STATE OF OHIO,	:	APPEAL NO. C-070267
	:	TRIAL NO. B-0602528
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
MARK DOYLE,	:	
	:	
Defendant-Appellant.	:	

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

Following a jury trial, defendant-appellant Mark Doyle was found guilty of two counts of felonious assault. Doyle received an aggregate sentence of three years' imprisonment. Doyle now appeals, raising three assignments of error for our review.

In his first and second assignments of error, Doyle argues that the guilty verdicts were against the manifest weight of the evidence and were not supported by sufficient evidence. The evidence presented at trial established that Doyle had been in an intimate relationship with the victim of his offenses, George Sackleh, for approximately one month. On November 23, 2004, Doyle had been visiting with Sackleh at Sackleh's home. Doyle attacked Sackleh from behind and stabbed him repeatedly. He further attempted to strangle Sackleh with a telephone cord. During the attack, Sackleh fell down a flight of stairs. At the bottom of the stairs, Sackleh hit his disabled security panel and told Doyle that the police were on the way. Doyle fled from Sackleh's home.

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

Sackleh suffered numerous stab wounds and a collapsed lung. During the investigation into his attack, Sackleh informed Cincinnati police specialist Michael Phillips that his attacker was a man named Allen Doyle and that Doyle had worked at a temporary service in Kentucky. Phillips visited the temporary service and discovered that one Mark Allen Doyle worked there. After obtaining relevant information concerning Mark Allen Doyle, Phillips was able to put together a photographic lineup for Sackleh to view. Sackleh identified Doyle as his attacker.

Doyle testified on his own behalf. He denied stabbing Sackleh, and he told the jury that he had never seen Sackleh prior to his trial. He further testified that he had been out of the state on the day of Sackleh's attack.

Doyle was found guilty of felonious assault under both R.C. 2903.11(A)(1) and (A)(2). R.C. 2903.11(A)(1) provides that "[n]o person shall knowingly * * * cause serious physical harm to another." And R.C. 2903.11(A)(2) provides that "[n]o person shall knowingly * * * cause or attempt to cause physical harm to another * * * by means of a deadly weapon or dangerous ordnance."

As we have stated, the evidence presented at trial established that Doyle had attacked Sackleh with a knife and stabbed him numerous times. He further attempted to strangle Sackleh with a telephone cord. Sackleh suffered a collapsed lung and numerous stab wounds. And Sackleh identified Doyle from a photographic lineup as his attacker. After viewing this evidence in the light most favorable to the prosecution, a reasonable trier of fact could clearly have found all the elements of both counts of felonious assault beyond a reasonable doubt.² The guilty verdicts were supported by sufficient evidence.

We further conclude that the guilty verdicts were not against the manifest weight of the evidence. The jury was in the best position to judge the credibility of the

² *State v. Martin* (1983), 20 Ohio App.3d 172, 175, 485 N.E.2d 717.

witnesses, and it was entitled to accept Sackleh's identification testimony and reject Doyle's testimony that he had not stabbed Sackleh. The jury clearly did not lose its way and create a manifest miscarriage of justice.³ The first and second assignments of error are overruled.

In his third assignment of error, Doyle argues that the trial court erred by allowing Sackleh and Specialist Phillips to testify regarding the certainty of Sackleh's identification of Doyle. During his testimony, Sackleh stated that he was absolutely sure that Doyle was the man who had attacked him. And Phillips testified that Sackleh had identified Doyle "in a matter of seconds" and appeared to be very certain.

This testimony was entirely proper. Both Sackleh and Phillips testified about factual observations that they had made. Sackleh had spent much time with Doyle and consequently was familiar with Doyle's appearance. Phillips viewed Sackleh make the identification. And based on Phillips' observation, Sackleh appeared certain of the identification. The jury was entitled to believe or reject this testimony.

The third assignment of error is overruled. Accordingly, the judgment of the trial court is affirmed.

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.

PAINTER, P.J., HENDON and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 27, 2008

per order of the Court _____.

Presiding Judge

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