

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

CITY OF CINCINNATI,	:	APPEAL NO. C-070374
	:	TRIAL NO. 07CRB-553
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
GEORGE HAWKINS,	:	
	:	
Defendant-Appellant.	:	

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

Following a bench trial, defendant-appellant George Hawkins was convicted of assault² and sentenced to 150 days' imprisonment. He now appeals, arguing in a single assignment of error that his conviction was against the manifest weight of the evidence. Specifically, Hawkins maintains that he was acting in self-defense when he punched his landlord, Mike Namaky. But to demonstrate self-defense, Hawkins had to prove by a preponderance of the evidence that he was not at fault in creating the situation giving rise to the affray.³ He did not do that.

The record is clear that Hawkins was the aggressor here. Although Hawkins argues that Namaky had begun the altercation by turning off the electricity to

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

² R.C. 2903.13(A).

³ *State v. Black*, 1st Dist. No. C-060861, 2007-Ohio-5871, citing *State v. Jackson* (1986), 22 Ohio St.3d 281, 283, 490 N.E.2d 893.

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Hawkins's apartment, Hawkins admitted at trial that he had followed Namaky to his car and sat in the driver's seat to prevent Namaky from leaving. Then, an eyewitness testified, after Namaky had retrieved his licensed gun from the back seat of his car and started to walk away, Hawkins had followed Namaky and punched him numerous times.

Because these facts demonstrated that Hawkins had been the aggressor, we cannot say that the trial court lost its way in resolving conflicts in the evidence and created a manifest miscarriage of justice by convicting Hawkins of assault. Accordingly, the single assignment of error is overruled, and the judgment of the trial court is affirmed.

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.

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

To the Clerk:

Enter upon the Journal of the Court on March 5, 2008
per order of the Court _____.
Presiding Judge