

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

STATE OF OHIO,	:	APPEAL NO. C-080161
	:	TRIAL NO. 08CRB-1452
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
	:	
CHRISTOPHER BELLAMY,	:	
	:	
Defendant-Appellant.	:	

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

On January 11, 2008, defendant-appellant Christopher Bellamy and his estranged wife met at a rodeo. His wife was there with the couple’s daughter, a co-worker, and the co-worker’s boyfriend. According to his wife, the encounter began cordially, but became heated because Bellamy thought that her co-worker’s boyfriend was her date. Tension grew to the point where Bellamy “got in [her] face and told [her] he was going to kill [her].” His wife testified that she took the threat seriously because “he [had] told me before that he wished I would die. And he has a tendency - - he’s getting worse and worse with how he reacts to things when he thinks I’m on a date or not on a date, or whatever he thinks is going on. He’s - - it’s like he is snapping.”

The wife’s co-worker testified that she also heard the threat. She testified that she called a work supervisor and put her cellular telephone on speaker mode “because I knew it was going to progress * * *. Because every time a situation happens like this with [Bellamy], it does.” On cross-examination, Bellamy’s counsel

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

attempted to ask the co-worker if, “on some occasion when [Bellamy’s wife] called [Bellamy], you were in the background taunting?” The trial court sustained the state’s objection to the question, and it was not answered.

Bellamy testified, denying that he had made the threat or that he had made prior threats. He claimed that he was having a conversation with his wife and that she spontaneously yelled out, “[A]re you going to kill me?” While Bellamy denied threatening his wife, he admitted—in a way—to making threatening statements to the co-worker’s boyfriend. He testified that “I said I just want to let you know I’m going to protect my daughter if you ever harm her.” On cross-examination, he claimed that it was not a “threat,” but “just a plain statement to let him know I love my daughter very much.”

The trial court found Bellamy guilty of one count of domestic violence, a misdemeanor of the fourth degree, and sentenced him accordingly.

On appeal, Bellamy first claims that his conviction was based upon insufficient evidence and was against the weight of the evidence.² To establish domestic violence, the state had to prove that Bellamy, by threat of force, had knowingly caused a family or household member to believe that the offender would cause that person physical harm imminently.³ The statute does not require proof of the accused's ability to carry out the threat imminently, or that he had taken steps toward carrying it out. The critical inquiry is whether the victim held a reasonable belief that the accused would imminently cause her physical harm.⁴

² The standards for weight and sufficiency of the evidence are well established. See *State v. Dubose*, 1st Dist. No. C-070397, 2008-Ohio-4983, at ¶76, citing *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus, and *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

³ R.C. 2919.25(C).

⁴ *State v. Collie* (1996), 108 Ohio App.3d 580, 584, 671 N.E.2d 338; see, also, *State v. Lee* (1995), 73 Ohio Misc.2d 9, 657 N.E.2d 604; *State v. Johnson* (1994), 73 Ohio Misc.2d 1; *State v. Taylor* (1996), 79 Ohio Misc.2d 82, 671 N.E.2d 343.

In his brief, Bellamy concedes that “the credibility of the witnesses was an important factor for consideration.” Bellamy’s wife testified to the threat, and that she took the threat seriously, and she gave the reasons for her belief. Her co-worker testified to the threat and that, in her experience with Bellamy, encounters had a tendency to “progress.” While Bellamy denied that the threat had occurred, he did little for his credibility when he claimed that his wife had exclaimed, “[A]re you going to kill me?” without provocation, and when he admitted that he had made a threatening statement to her co-worker’s boyfriend but claimed that the statement was not a threat.

The credibility of the witnesses and the weight to be given to their testimony are matters for the trier of fact to resolve.⁵ In this case, Bellamy’s conviction was based upon sufficient evidence and was not against the weight of the evidence.

In his second assignment of error, Bellamy claims that the trial court improperly limited his cross-examination of the co-worker by sustaining the state’s objection to the question about the previous telephone call. As with most other evidentiary determinations, the “scope of cross-examination ‘lies within the sound discretion of the trial court, viewed in relation to the particular facts of the case. Such exercise of discretion will not be disturbed in the absence of a clear showing of an abuse of discretion.’”⁶

In this case, Bellamy’s counsel attempted to elicit an admission by the wife’s co-worker that, on some prior occasion, she had been taunting in the background while Bellamy spoke to his wife on the telephone. Such an admission would have had only tangential relevance to the co-worker’s credibility, and in no way was

⁵ *Dubose* at ¶177, citing *State v. DeHass* (1967), 10 Ohio St.2d 230, 227 N.E.2d 212.

⁶ *State v. Slagle* (1992), 65 Ohio St.3d 597, 605, 605 N.E.2d 916, citing *State v. Acre* (1983), 6 Ohio St.3d 140, 145, 451 N.E.2d 802.

counsel prevented from arguing that credibility problem in closing argument. Surely counsel could have argued that the witness had a bias in favor of her friend and co-worker absent such an admission. Under these circumstances, it was not an abuse of discretion to limit the questioning on the point.

For these reasons, we overrule Bellamy's two assignments of error and affirm the trial court's judgment.

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

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

To the Clerk:

Enter upon the Journal of the Court on November 26, 2008
per order of the Court _____
Presiding Judge