

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

STATE OF OHIO,	:	APPEAL NOS. C-080603
		C-080604
Plaintiff-Appellee,	:	TRIAL NO. 08CRB-15011
vs.	:	
STEVEN STUDLEY,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

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

Defendant-appellant Steven Studley was convicted following a bench trial of domestic violence, a first-degree misdemeanor in violation of R.C. 2919.25(B), and assault, a first-degree misdemeanor in violation of R.C. 2903.13(B). On appeal, he raises two assignments of error. Because we find neither of these assignments well taken, we affirm the trial court's judgment.

In two interrelated assignments of error, Studley argues that his convictions for domestic violence and assault were based on insufficient evidence.

When a defendant claims that his conviction is supported by insufficient evidence, this court must review the evidence in the light most favorable to the

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

prosecution and determine whether any rational trier of fact could have found all the elements of the crime proved beyond a reasonable doubt.²

During the trial, Studley's girlfriend, Donna McKinley, testified that she had been living with Studley for three years. During that time, they had received mail together, shared property, and engaged in sexual relations. On May 4, 2008, McKinley was at home with Studley. Studley had been drinking beer most of the day when an argument arose between herself and Studley.

At some point, Studley left the house and got in her truck so he could purchase more beer. McKinley ran after Studley, opened the passenger door, and told Studley not to drive the truck because he had been drinking. While she was still holding on to the door, Studley called her a few names, started the truck, and sped out of the driveway. McKinley tried to let go, but the door hit her in the face and she fell to the ground. The back wheel of the truck then ran over her arm as Studley sped away.

The police and paramedics arrived shortly thereafter. A police officer photographed McKinley's bloody face and head, as well as her broken arm. The officer also photographed skid marks in the driveway and road. The officer testified that the skid marks in the driveway were separated by wet blood. McKinley also had skid marks on her arm.

McKinley was then taken to a hospital where she received several stitches in her forehead. The following day, she returned to the hospital for surgery to insert a steel plate and pins in her arm. She testified that she was still undergoing physical therapy twice a week for her arm at the time of the trial. Studley was arrested for

² *State v. Eley* (1978), 56 Ohio St.2d 169, 383 N.E.2d 132.

domestic violence and assault. He told the officer that there had been a misunderstanding.

Studley claims the state failed to present sufficient evidence that he had assaulted McKinley. He maintains that the state failed to show that he had acted recklessly. Studley's argument, however, ignores testimony that he had been drinking prior to the incident. While this testimony did not show that Studley was legally impaired; consuming alcohol prior to operating a motor vehicle "may demonstrate 'heedless indifference to the consequences' of one's action and a perverse disregard of a known risk as is required by R.C. 2901.22 to demonstrate reckless conduct."³ Moreover, McKinley testified that after she had confronted Studley, he started the truck and sped away. When the truck door hit her face, she fell to the ground, but Studley did not stop the truck. Instead, he sped out of the driveway, running over her arm. A police officer testified that there were skid marks in the driveway separated only by wet blood and that these skid marks continued into the roadway. The trial court, as the trier of fact, could reasonably have concluded based upon this evidence that Studley had acted recklessly. As a result, we find his first assignment of error meritless.

Studley next claims that his conviction for domestic violence was also supported by insufficient evidence. He contends that the state failed to present evidence that he and McKinley had been living together as spouses. He argues that McKinley failed to testify that they had shared familial and financial responsibilities, such as jointly paying for their rent, utilities, groceries, or clothing.⁴ But McKinley

³ *State v. Gaughan*, 9th Dist. No. 08CA0010-M, 2008-Ohio-5528, at ¶39, quoting *State v. Wamsley* (Feb. 2, 2000), 9th Dist. No. 19484.

⁴ *State v. Williams*, 79 Ohio St.3d 459, 1997-Ohio-79, 683 N.E.2d 1126, paragraph two of the syllabus.

did testify that they had been living together for three years, and that they had received mail, shared property, and engaged in a sexual relationship during that time. This testimony was sufficient to prove that McKinley was a person living as a spouse within the meaning of the domestic-violence statute.⁵ As a result, we overrule Studley's first and second assignments of error and affirm the judgment of the trial court.

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.

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

To the Clerk:

Enter upon the Journal of the Court on April 22, 2009
per order of the Court _____
Presiding Judge

⁵ See, e.g., *State v. Ramirez*, 1st Dist. No. C-050981, 2006-Ohio-5600, at ¶5.