

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

STATE OF OHIO,	:	APPEAL NO. C-090516
Plaintiff-Appellee,	:	TRIAL NO. B-0805617-A
vs.	:	<i>JUDGMENT ENTRY.</i>
DAVID ARNOLD,	:	
Defendant-Appellant.	:	

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

After a one-week trial, a jury found defendant-appellant David Arnold guilty of one count of aggravated murder (with two firearm specifications) and one count of having a weapon while under a disability. For the aggravated murder and the accompanying firearm specifications, the trial court sentenced Arnold to life imprisonment without the possibility for parole, which was made consecutive to two concurrent terms of five years' incarceration and three years' incarceration. For having a weapon while under a disability, the trial court sentenced Arnold to a consecutive term of five years' incarceration. Arnold's total aggregate sentence was life without the possibility of parole, plus ten years' additional confinement. Arnold now appeals, asserting two assignments of error.

In his first assignment of error, Arnold argues that the trial court erred because it convicted him based upon insufficient evidence, while in his second

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

assignment of error, Arnold contends that his convictions were against the manifest weight of the evidence. Specifically, Arnold argues that his aggravated-murder conviction cannot stand because there was no proof of prior calculation and design. In addition, he argues that both of his convictions were primarily based upon the self-serving testimony of other defendants and biased individuals. We address both assignments together.

“The test [for the sufficiency of the evidence] is whether after viewing the probative evidence and inferences reasonably drawn therefrom in the light most favorable to the prosecution, any rational trier of fact could have found all the essential elements of the offense beyond a reasonable doubt.”² But even if a reviewing court determines that a conviction is sustained by sufficient evidence, the judgment may still be against the manifest weight of the evidence. When examining a challenge to the manifest weight of the evidence, a reviewing court “review[s] the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses, and determines whether, in resolving conflicts in the evidence, the [trier of fact] clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.”³

The record reveals that Arnold, along with two other individuals, Channel Sisco and Michael Goss, travelled in Sisco’s blue Dodge Durango down Ferguson Road in Hamilton County. As they approached a bus stop, Arnold, who was occupying the front passenger side of the Durango, began firing a handgun that he had brought with him. The gunshots resulted in the death of Anthony Gill, who had been waiting at the bus stop.

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

³ *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541, quoting *Martin*, 20 Ohio App.3d at 175.

Sisco and Goss both testified against Arnold. Both stated that the killing had been in retaliation for someone frightening Sisco earlier that day on Ferguson Road. Charles Murrell, a childhood acquaintance of Arnold who happened to be in jail with Arnold while being detained for another crime, testified that Arnold had confessed to the killing while in jail. Another witness, Arnold's cousin Quentin Arnold, testified that Arnold had bragged about the shooting, stating "[Arnold] told everybody he got a chance to use his gun." Ruby Smith, the mother of a friend of Arnold, testified that Arnold had told her that he "took care of" the person who had shot her son one month earlier. Finally, gunshot residue was found inside Sisco's Durango in the front passenger side.

We hold that Arnold's convictions were supported by sufficient evidence and were not against the manifest weight of the evidence. Based upon the facts we have already noted, the other evidence presented at trial, and a thorough review of the record, we hold that a rational trier of fact could have found Arnold guilty of aggravated murder and having a weapon while under a disability, and that the jury did not lose its way in finding him guilty of the two offenses.

We find no merit to Arnold's two assignments of error, and we affirm the judgment of the trial court.

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.

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

To the Clerk:

Enter upon the Journal of the Court on November 19, 2010

per order of the Court _____.

Presiding Judge