

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

STATE OF OHIO,	:	APPEAL NO. C-150251
	:	TRIAL NO. C-14CRB-24808
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JAMONTAY CLARK,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Jamontay Clark was convicted of assault under R.C. 2903.13(A). Clark had struck his then-girlfriend Briyonna Collins in the face during an argument outside of Dave and Buster's. The trial court sentenced Clark to pay a fine and court costs and ordered him to stay away from Collins. Clark now appeals.

In his first assignment of error, Clark challenges the sufficiency and the weight of the evidence supporting his conviction. Following our review of the record, we conclude that the trial court, after viewing the evidence presented in the light most favorable to the prosecution, could reasonably have found the elements of assault proven beyond a reasonable doubt. *See State v. Martin*, 20 Ohio App.3d 172,

175, 485 N.E.2d 717 (1st Dist.1983). And this was not the rare case in which the trier of fact, in convicting Clark, lost its way and created such a manifest miscarriage of justice that Clark's conviction must be reversed. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). The trial court was in the best position to judge the credibility of the witnesses. It was free to find portions of a witness' testimony credible, and to reject other portions of that same witness' testimony. *See State v. Todd*, 1st Dist. Hamilton No. C-020559, 2003-Ohio-3056, ¶ 12. We hold that Clark's conviction was supported by both the sufficiency and the weight of the evidence. The first assignment of error is overruled.

In his second assignment of error, Clark contends that the trial court should have found him guilty of the lesser-included offense of disorderly conduct. Because we have already determined that Clark's conviction for assault was supported by sufficient evidence, this argument is without merit. *See State v. Davis*, 1st Dist. Hamilton No. C-040411, 2006-Ohio-4599, ¶ 13. The second assignment of error is overruled. The judgment of the trial court is, accordingly, 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.

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

To the clerk:

Enter upon the journal of the court on October 23, 2015
per order of the court _____.
Presiding Judge