

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

STATE OF OHIO,	:	APPEAL NOS. C-150390
		C-150407
Plaintiff-Appellee,	:	TRIAL NO. B-1405034
vs.	:	<i>JUDGMENT ENTRY.</i>
DAMIAN CARLTON,	:	
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.

Defendant-appellant Damian Carlton was indicted for aggravated burglary with accompanying weapon specifications and two counts of felonious assault. Following a jury trial, Carlton was found guilty of both counts of felonious assault and aggravated burglary, but was acquitted of the weapon specifications. Carlton filed a post-trial Crim.R. 29(C) motion for an acquittal, arguing that the jury had returned inconsistent verdicts. The trial court denied Carlton's motion. After merging the two counts of felonious assault and making the sentences imposed for felonious assault and aggravated burglary consecutive, the trial court imposed an aggregate sentence of 19 years' imprisonment. Carlton now appeals.

In his first assignment of error, Carlton argues that his convictions for felonious assault and aggravated burglary were not supported by sufficient evidence and were against the manifest weight of the evidence, and that the trial court erred in denying his motion for an acquittal. The evidence presented at trial established that Carlton had met Kristin Ivory on a chat line and arranged to meet her in person. The two met for the first time at Ivory's apartment on July 21, 2014. While Carlton was there, Ivory showed him approximately \$500 that she had been saving to purchase a new automobile. Carlton left Ivory's apartment at midnight, but he returned around 7:00 a.m. the following morning, asking to use her telephone to call for a ride. When Ivory opened the door for him, Carlton pulled out a black handgun and entered with another assailant. Carlton demanded that Ivory give him her money. He repeatedly struck her in the face with his handgun and choked her while his accomplice searched her apartment. Carlton left with Ivory's cellular telephone and her watch. Ivory suffered numerous injuries, including the permanent loss of vision in her left eye.

Following our review of the record, we find that, when viewing the evidence in the light most favorable to the prosecution, the jury could reasonably have found the elements of felonious assault under R.C. 2903.11(A)(1) and aggravated burglary under R.C. 2911.11(A)(2) proven beyond a reasonable doubt. *See State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983). Nor was this the rare case in which the jury lost its way and created such a manifest miscarriage of justice in convicting Carlton that his convictions must be reversed. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Carlton's convictions were supported by sufficient evidence and were not against the manifest weight of the evidence, and the trial court did not err in denying his motion for an acquittal on those grounds.

See State v. Williams, 74 Ohio St.3d 569, 576, 600 N.E.2d 724 (1996). The first assignment of error is overruled.

In his second assignment of error, Carlton argues that the trial court erred in denying his post-trial Crim.R. 29(C) motion for an acquittal because the jury had returned inconsistent verdicts. He contends that the verdicts were inconsistent because the jury had convicted him of aggravated burglary under R.C. 2911.11(A)(2), which required proof that he had had a deadly weapon or dangerous ordnance on his person or under his control, but acquitted him of the accompanying firearm specifications. We reject this argument on the authority of *State v. Sanders*, 1st Dist. Hamilton No. C-030846, 2004-Ohio-6842, ¶ 17, where we held that “a finding on a specification that is inconsistent with a guilty finding on the principal charge will not undermine the guilty finding on the principal charge where, as here, sufficient evidence supports that guilty finding.” The trial court did not err in denying Carlton’s motion for an acquittal, and 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., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on June 22, 2016
per order of the court _____.
Presiding Judge