

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

STATE OF OHIO,	:	APPEAL NO. C-150644
Plaintiff-Appellee,	:	TRIAL NO. 15CRB-12567
vs.	:	
LEROY GOODWIN,	:	<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. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

This is an appeal from a misdemeanor conviction for assault following a bench trial. Leroy Goodwin raises two assignments of error. In the first, he argues the trial court improperly rejected his self-defense claim. In the second, he challenges the weight and sufficiency of the evidence against him. We affirm the trial court's judgment.

Mr. Goodwin was charged with assault following an altercation with his neighbor, Vincent Bowen. The incident began when Bowen confronted Goodwin, claiming that he owed him money. There was a heated exchange of words. Another neighbor, Donald Harville, stepped in between them, and ultimately, Mr. Bowen left to put away his groceries. Mr. Bowen had a knife during this initial altercation, but did not use it. About ten minutes later, Mr. Bowen returned. Mr. Goodwin retrieved a steak knife from his wife's car. Mr. Harville again stood between Bowen and Goodwin, but Mr. Goodwin used the steak knife to stab Bowen in the chest. The blade of the knife broke during the stabbing. Mr. Bowen sustained only a minor injury that did not require medical attention. Mr. Goodwin was convicted of assault and sentenced accordingly.

In his first assignment of error, Mr. Goodwin contends the trial court erred as a matter of law in rejecting his claim of self-defense. He argues that the force he used did not create a risk of death or great bodily harm, and therefore, the court should have applied the nondeadly-force standard for self-defense, instead of the deadly-force standard.

“Deadly force” is “any force that carries a substantial risk that it will proximately result in the death of any person.” R.C. 2901.01(A)(2). When a defendant uses a deadly weapon to cause physical harm, the deadly-force standard applies. *See State v. Luc Tan Vu*, 10th Dist. Franklin No. 09AP-606, 2010-Ohio-4019, ¶ 15-17. Mr. Goodwin admitted that he had used a steak knife to stab Bowen during the altercation. *See State v. Bosley*, 1st Dist. Hamilton, ¶ 15, (concluding that a box cutter qualified as a deadly weapon); *State v. Hansen*, 4th Dist. Athens No. 01CA15, 2002-Ohio-6135, ¶ 29, (determining that slashing another person with a lock-blade knife creates a substantial risk of death). The fact that the knife fortuitously broke during the stabbing does not change the fact that the weapon used by Mr. Goodwin was one that created a substantial risk of death. (It might be a different story if the blade had been broken before the assault.) Thus, we cannot say that the trial court erred when it applied the deadly-force standard for self-defense. Therefore, Mr. Goodwin’s first assignment of error is overruled.

In his second assignment of error, Mr. Goodwin argues his conviction was not supported by sufficient evidence and was against the manifest weight of the evidence.

The statute under which Mr. Goodwin was convicted, R.C. 2903.13(A), requires a showing that the defendant knowingly caused or attempted to cause physical harm to another. Mr. Goodwin argues the evidence was insufficient to show he had acted knowingly when he injured Bowen based on his ineffective use of the knife. But Mr. Goodwin admitted that he had stabbed Bowen with the knife. This evidence was sufficient to meet the elements of the offense. *See State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

Mr. Goodwin further argues that his conviction was against the manifest weight of the evidence because the evidence demonstrated he had acted in self-defense. To establish self-defense involving deadly force, a defendant must show that he (1) was not at fault in creating the situation giving rise to the affray, (2) acted with a bona fide belief that he was in imminent danger of death or great bodily harm and that his only means of escape from such danger was in the use of such force, and (3) did not violate any duty to retreat or avoid the danger. *State v. Barnes*, 94 Ohio St.3d 21, 24, 759 N.E.2d 1240 (2002). The court rejected the self-defense claim based upon the testimony of Harville: it credited Harville's testimony that he had been standing between the men at the time of the incident and found no indication that Bowen had made any aggressive gesture that put Goodwin in fear of death or bodily harm. Thus, the court found that Goodwin had failed to show it was reasonable for him to believe he was at risk of death or great bodily harm. Based upon our review of the record—including a weighing of the evidence and all reasonable inferences, and consideration of the credibility of the witnesses—we cannot conclude that the trial court so clearly lost its way in this determination as to create a manifest miscarriage of justice. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). As a result, Mr. Goodwin's second assignment of error is overruled.

We overrule both assignments of error and 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., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on May 25, 2016

per order of the court _____.

Presiding Judge