

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

STATE OF OHIO,	:	APPEAL NO. C-180584
Plaintiff-Appellee,	:	TRIAL NO. C-18CRB-13314
vs.	:	<i>JUDGMENT ENTRY.</i>
TIARRA BENDER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Tiarra Bender was convicted of domestic violence for assaulting her 13-year-old daughter, T.B. She now appeals.

At trial, the state presented evidence that while Bender’s car was parked in a lot outside of a recreational center, her daughter went to the car alone and started the car. A witness testified that she saw Bender come out of the recreational center, open the driver’s door of the car, and scream at the child. The witness saw Bender grab the child by the arm, causing the child to fall to the ground on her bottom. Bender then grabbed the child by her hair, put her in a headlock, punched her in the head four or five times, and kicked her. According to the witness, the child was able to get away from Bender and run to the other side of the car, where the child “peed her pants.” The witness testified that when Bender pulled the child back into the building, the child “had wet going down her legs.”

Police officers quickly responded to the scene. They found the child sitting by herself at a table in the lobby of the recreational center, with “[n]o adults around her,” and noticed that the child appeared to have wet her pants. After getting a description from the child of her mother, the officers were able to locate Bender in a gym within the recreational center. Bender told the officers that her daughter had gone to the car to get a phone charger or to plug her phone into the car’s charger. She said that she and her daughter had a verbal altercation outside the driver’s side door of the car. Bender said that she did not hit her daughter and described the incident as a discipline issue. The officers placed Bender under arrest after allowing her to make arrangements for the care of her child.

At the conclusion of the evidence, the trial court denied Bender’s Crim.R. 29 motion for a judgment of acquittal and, after closing arguments, found Bender guilty of domestic violence. The court sentenced Bender to one year of probation and 180 days in jail with 178 days suspended and credit for two days served.

In her first assignment of error, Bender argues that her conviction was based upon insufficient evidence. In reviewing a challenge to the sufficiency of the evidence, this court must determine whether, after construing all reasonable inferences in favor of the state, any reasonable trier of fact could find that the state presented evidence to prove each of the essential elements of the offense beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

Bender was convicted of domestic violence pursuant to R.C. 2919.25(A), which prohibits knowingly causing or attempting to cause physical harm to a family or household member. The term “family or household member” is defined to include a child of the offender “who is residing or has resided with the offender.” R.C. 2919.25(F)(1)(a)(ii). Bender argues that the state failed to prove that her daughter was a family or household member because it presented no evidence that her daughter ever resided with her.

In this case, Bender arranged for a woman to care for her daughter while Bender was in police custody, which gave rise to a reasonable inference that mother and daughter resided together. *See State v. Wynn*, 1st Dist. Hamilton No. C-160782, 2017-Ohio-8045, ¶ 9. Construing all reasonable inferences in favor of the state, we hold that the state presented sufficient evidence that Bender’s daughter was a “family or household member” under the domestic-violence statute. *See Jenks*, 61 Ohio St.3d at 273, 574 N.E.2d 492. We overrule the first assignment of error.

In her second assignment of error, Bender argues that her conviction was against the manifest weight of the evidence. Specifically, she contends that the civilian witness’s testimony that she had assaulted her child was not credible because neither police officer testified that the child was crying or said that she was injured, and neither officer observed any injury to the child. However, the officers’ testimony did not contradict that of the civilian witness, and the trial court’s determination that Bender caused or attempted to cause physical harm to her child was not against the manifest weight of the evidence. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). In addition, we reject Bender’s assertion that the evidence supported a finding that she was exercising her right to discipline her child. The trial court was entitled to find that Bender’s putting her daughter in a headlock, repeatedly punching her in the head, and kicking her was not reasonable parental discipline. *See State v. Purvis*, 2018-Ohio-2881, 117 N.E.3d 828 (12th Dist.); *Westlake v. Y.O.*, 8th Dist. Cuyahoga No. 107226, 2019-Ohio-2432. Therefore, we overrule the second assignment of error and affirm the trial court’s judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MYERS, P.J., CROUSE and WINKLER, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

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To the clerk:

Enter upon the journal of the court on January 31, 2020,  
per order of the court \_\_\_\_\_.

Presiding Judge