

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

STATE OF OHIO,	:	APPEAL NO. C-180660
Plaintiff-Appellee,	:	TRIAL NO. 18CRB-22953
vs.	:	<i>JUDGMENT ENTRY.</i>
J.D. CAUTHEN, JR.,	:	
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.

Defendant-appellant J.D. Cauthen appeals his conviction for domestic violence in violation of R.C. 2919.25(A). In one assignment of error, he argues that his conviction was against the manifest weight of the evidence. We overrule his assignment of error and affirm the trial court’s judgment.

During a bench trial, Cauthen’s girlfriend, Ayesha Campbell, testified that she and Cauthen lived together in an apartment with their two children. On August 30, 2018, Campbell told Cauthen to get out of the apartment. According to Campbell, a fight ensued and he started choking her. She testified that she tried to fight him off, but that she couldn’t because she was 30 weeks pregnant at the time. Eventually, he let go, only to choke her again a couple of minutes later, this time digging his nails into her neck. He also pushed her and “roughed her up.” Campbell testified that she

left the apartment and drove up the street to a gas station, where she eventually called the police.

Officer Ronald Ponsch testified that he responded to the gas station and found Campbell “worked up, emotional.” He took Campbell’s statement regarding the incident.

Cauthen’s sister, Lajai Cauthen, testified that Cauthen was with her, at their parents’ house, all day on August 30, 2018.

The trial court found Cauthen guilty of domestic violence. On appeal, Cauthen argues that his conviction is against the manifest weight of the evidence.

When reviewing a claim that the conviction is against the manifest weight of the evidence, we review the record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether the trier of fact “clearly lost its way and created such a manifest miscarriage of justice that the conviction must be overturned.” *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983). Reversal and grant of a new trial should only be done in “exceptional cases in which the evidence weighs heavily against the conviction.” *Id.*

The trier of fact is in the best position to judge the credibility of the witnesses. *State v. Carson*, 1st Dist. Hamilton No. C-180336, 2019-Ohio-4550, ¶ 16, citing *State v. DeHass*, 10 Ohio St.2d 230, 231, 227 N.E.2d 212 (1967).

This case came down to whether the court believed Campbell’s testimony, or the alibi testimony of Lajai. The court found Lajai’s testimony not to be credible. Cauthen argues that the trial court dismissed Lajai’s testimony simply because she is his sister, and that dismissing Lajai’s testimony on this basis was improper.

The trial court was not required to state why it did not find Lajai credible. Also, it was entirely proper for the court to consider Lajai’s potential bias in weighing

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her credibility. The trial court was in the best position to weigh the testimony of Campbell and Lajai. While this was not a strong case, Cauthen has not demonstrated that the court erred in such a way as to make this one of those exceptional cases in which the evidence weighs heavily against the conviction. Cauthen's conviction is not against the manifest weight of the evidence. His sole assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Due to Cauthen's indigence, we refrain from taxing costs and expenses against him.

MOCK, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on December 6, 2019

per order of the court _____.
Presiding Judge