

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

STATE OF OHIO,	:	APPEAL NO. C-190197
	:	TRIAL NO. 17CRB-26500
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
LAMAR TAYLOR,	:	
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.

On December 26, 2016, Oliver Baehre was staying at the home of Dawn Palmer, who is the mother of two of Baehre’s children. Defendant-appellant Lamar Taylor arrived at the home and knocked on the back door. According to Baehre, Taylor demanded that Baehre stop “messing with” Palmer, who was Taylor’s sister. Taylor then punched him several times in the face, and Baehre fled out of the back door. Taylor followed, slammed him to the ground, and punched him in the back of the head several times before fleeing. As a result of the incident, Baehre suffered a swollen jaw and dislocated shoulder.

Taylor was charged with assault in violation of R.C. 2903.13, and the case proceeded to a jury trial. Baehre gave his account of what had occurred, and two police officers reported what Baehre had told them. The account Baehre had given to the officers differed slightly from his testimony at trial. Taylor also testified. He said that, while he had gone to Palmer’s home to confront Baehre about his relationship with Palmer, Baehre was the initial aggressor. Taylor claimed that he had only been defending himself from Baehre’s attack. The jury found Taylor guilty of assault and the trial court sentenced him accordingly.

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In one assignment of error, Taylor claims that his conviction was against the manifest weight of the evidence. In reviewing a challenge to the weight of the evidence, we sit as a “thirteenth juror.” *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). We review the entire record, weigh the evidence, consider the credibility of the witnesses, and determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice. *Id.*

Witness credibility is an issue for the trier of fact to resolve. *See State v. Issa*, 93 Ohio St.3d 49, 67, 752 N.E.2d 904 (2001). “Because the trier of fact sees and hears the witnesses and is particularly competent to decide ‘whether, and to what extent, to credit the testimony of particular witnesses,’ we must afford substantial deference to its determinations of credibility.” *State v. Glover*, 1st Dist. Hamilton No. C-180572, 2019-Ohio-5211, ¶ 30, citing *Barberton v. Jenney*, 126 Ohio St.3d 5, 2010-Ohio-2420, 929 N.E.2d 1047, ¶ 20. In this case, the jury was presented with two, credible versions of the same events. The fact that Baehre had given a slightly different account to the police does not make his testimony so incredible that it amounted to a miscarriage of justice for the jury to believe it. *See State v. McClendon*, 1st Dist. Hamilton No. C-050274, 2006-Ohio-1846. We overrule Taylor’s sole assignment 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.

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

To the clerk:

Enter upon the journal of the court on June 10, 2020

per order of the court _____.

Presiding Judge