

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

STATE OF OHIO,	:	APPEAL NO. C-210481
Plaintiff-Appellee,	:	TRIAL NO. C-21CRB-13558
vs.	:	<i>JUDGMENT ENTRY.</i>
PERRY STEPHENS,	:	
Defendant-Appellant.	:	

The court sua sponte removes this case from the regular calendar and places it on the court’s accelerated calendar, 1st Dist. Loc.R. 11.1.1(A), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E).

Defendant-appellant Perry Stephens appeals from the judgment of the Hamilton County Municipal Court convicting him, after a jury trial, of domestic violence.

Stephens was convicted of “knowingly caus[ing] or attempting to cause physical harm to a family or household member,” in violation R.C. 2919.25(A). The state presented evidence that Stephens kicked his mother Rebecca in the knee and slapped her across her face while in her home on the evening of July 31, 2021. Both contacts broke Rebecca’s skin. Further, according to Rebecca, Stephens told her he had been “aiming for [her] head,” not her knee, and he disappeared from the home after the altercation but before the police arrived.

Rebecca's testimony concerning her injuries was corroborated by the testimony of the investigating police officer and three photographs that were admitted into evidence. Stephens did not testify.

In his second assignment of error, which we address first, Stephens argues his conviction was against the manifest weight of the evidence. The weight to be given the evidence and the credibility of witnesses were primarily for the trier of facts. *State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. Upon our review of the record, we find nothing to suggest that the jury, in its assessment of the evidence on the charged offense of domestic violence, lost its way or created such a manifest miscarriage of justice that the defendant's conviction must be reversed and a new trial ordered. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). We, therefore, overrule the second assignment of error.

In his first assignment of error, Stephens argues several erroneous evidentiary rulings culminated in an unfair trial. Under the cumulative-error doctrine, a conviction may be reversed if the cumulative effect of errors deemed separately harmless results in the denial of a fair trial. *State v. DeMarco*, 31 Ohio St.3d 191, 509 N.E.2d 1256 (1987), paragraph two of the syllabus, cited in *State v. Williams*, 2017-Ohio-8898, 101 N.E.3d 547, ¶ 25 (1st Dist.).

We do not find cumulative error in this case. Stephens failed to show that the trial court abused its discretion when it admitted his mother's testimony that had he called her offensive names during the encounter, relevant testimony that did not result in a discovery violation or a violation of Evid.R. 403(A). Further, Stephens failed to show an abuse of discretion when the court allowed testimony that he had pulled his girlfriend's hair in between kicking and slapping his mother, testimony concerning acts

“inextricably intertwined” with the charged offense, *see State v. David*, 1st Dist. Hamilton No. C-210227, 2021-Ohio-4004, ¶ 19, and not in violation of Evid.R. 402 or 403(A). Further, Stephens failed to demonstrate that the trial court abused its discretion when limiting his cross-examination of his mother, because the sought after testimony concerning the guns found in the home was not relevant to the alleged R.C. 2919.25(A) violation and was not tied to a viable means to attack Rebecca’s credibility. *See* Evid.R. 401; Evid.R. 611. Consequently, Stephens failed to establish grounds for reversal under the cumulative-error doctrine. We, therefore, overrule the first assignment of error and affirm the judgment of the court below.

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.

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

To the clerk:

Enter upon the journal of the court on **May 18, 2022**,

per order of the court_____.

Administrative Judge