

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

STATE OF OHIO,	:	APPEAL NO. C-200387
		TRIAL NO. B-1905054
Plaintiff-Appellee,	:	
		<i>JUDGMENT ENTRY.</i>
vs.	:	
SHAWNTELLE HEATH,	:	
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); 1st Dist. Loc.R. 11.1.1.

After a bench trial, Shawntelle Heath was convicted of felonious assault for striking Quiana Allen with her vehicle. She was sentenced to an indefinite prison sentence of three-to-four-and-a-half years under the Reagan Tokes Law. Heath now appeals, arguing that the conviction was based on insufficient evidence and was contrary to law because the identification of her as the driver was not credible, and challenging the constitutionality of the Reagan Tokes Law.

In reviewing a challenge to the sufficiency of the evidence, a reviewing court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime had been proved beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

When considering a challenge to the weight of the evidence, an appellate court must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, the trier of fact clearly lost its way and created a manifest miscarriage of justice. *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). We afford substantial deference to credibility determinations because the factfinder sees and hears the witnesses. *See State v. Glover*, 1st Dist. Hamilton No. C-180572, 2019-Ohio-5211, ¶ 30.

Heath argues that the evidence was insufficient to establish that she was the driver of the van that struck Allen. Allen testified that she saw Heath driving the van and yelling at her before hitting her. “Eyewitness identification testimony is sufficient to support a conviction.” (Citations omitted.) *State v. Humberto*, 196 Ohio App.3d 230, 2011-Ohio-3080, 963 N.E.2d 162, ¶ 10 (10th Dist.). Construing the evidence in the light most favorable to the state, the evidence was sufficient to identify Heath as the driver.

In reviewing the manifest weight of the evidence, eyewitness identification testimony is sufficient to support a conviction so long as a reasonable juror could find the eyewitness testimony to be credible. *Id.* at ¶ 12. Credibility determinations are primarily for the finder of fact. Here, the trial court found Allen’s testimony credible. We cannot say that the trial court clearly lost its way and created such a manifest miscarriage of justice as to warrant reversal. We overrule the first assignment of error.

In the second assignment of error, Heath argues that the Reagan Tokes Law violates the separation-of-powers doctrine by allowing an executive agency to sentence offenders for criminal acts. Haynes also contends the Regan Tokes Law fails to provide the necessary substantive-and-procedural-due-process protections prior to depriving

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offenders of their liberty interest to be free from incarceration beyond their judicially imposed sentence. Finally, Haynes argues the Reagan Tokes Law denies her the equal protection of the law by treating first- and second-degree-felony offenders differently than inmates serving definite sentences for the same offenses.

This court recently rejected similar constitutional arguments and held that the Reagan Tokes Law is constitutional. *See State v. Guyton*, 1st Dist. Hamilton No. C-190657, 2022-Ohio-2962. Guided by that precedent, which we incorporate by reference, we overrule Heath's second assignment of error.

Accordingly, we affirm the judgment of the trial court.

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.

ZAYAS, P.J., BERGERON and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on October 28, 2022
per order of the court _____.

Administrative Judge