

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

STATE OF OHIO,	:	APPEAL NO. C-200335
Plaintiff-Appellee,	:	TRIAL NO. C-20CRB-12335
vs.	:	<i>JUDGMENT ENTRY.</i>
JOSEPH CLARK,	:	
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 Joseph Clark appeals his conviction, after a bench trial, on one count of domestic violence, in violation of R.C. 2919.25(A). We affirm.

At trial, Rachele Richards testified that at around 5:00 a.m. on June 27, 2020, she sustained injuries to her ankle after Clark pushed her inside her apartment. Richards further testified that Clark had been sharing the apartment with her for several months and during that time she assisted him in securing government benefits, purchased beer for him, and lived with him “as a couple,” including engaging in sexual relations.

Clark testified, too. He admitted that he pushed Richards, but claimed he did so only in self defense. Clark attempted to corroborate his testimony with a video he had captured on his cellphone that showed Richards inebriated and acting aggressively towards him with a metal-tipped dog brush. That video was admitted into evidence,

but it was undisputed that it depicted events occurring at about two a.m, three hours before Richards claimed to have been assaulted. Clark further testified that Richards had injured her ankle a month earlier and did not suffer any injury that night.

The only other testimony was provided by Mt. Healthy Police Officer Onam Williams, who was dispatched to Richards's apartment based on a 911 call received around 5:30 a.m. Officer Williams confirmed that Richards was in pain, and a photograph of Richards's swollen ankle was admitted as an exhibit at trial. The officer also confirmed Richards's testimony, and contradicted Clark's testimony, that Richards had let him into the apartment for his investigation.

At the close of evidence, the trial court found Clark guilty of domestic violence.

In his first assignment of error, Clark argues his conviction for domestic violence was not supported by sufficient evidence. Specifically, he argues the state failed to prove that Richards was a "family or household member" under the domestic-violence statute. A "family or household member" element of the offense is defined in part as a "person living as a spouse \* \* \* of the offender" "who is residing or has resided with the offender." R.C. 2919.25(F)(1)(a)(iii). A "person living as a spouse" of the offender includes "a person \* \* \* who \* \* \* is cohabiting with the offender." R.C. 2919.25(F)(2).

Here, Richards testified that she and Clark had lived together for three months, had no other residences, and were in a relationship that involved sexual relations, society and aid. This evidence, when viewed in the light most favorable to the state, was sufficient to establish cohabiting, one of the relationships described in R.C. 2919.25(F). *See State v. McGlothan*, 138 Ohio St.3d 146, 2014-Ohio-85, 4 N.E.3d 1021, ¶ 15. Because the state presented sufficient evidence of domestic violence, we overrule the first assignment of error.

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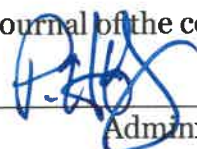
In his second assignment of error, Clark argues his conviction was contrary to the manifest weight of the evidence. After reviewing the record, we cannot say the trier of fact lost its way when resolving the facts against Clark and created such a manifest miscarriage of justice that we must reverse Clark's conviction and order a new trial. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Clark primarily argues that the victim's testimony was not credible and his testimony was credible. But we note that the weight to be given the evidence and the credibility of the witnesses are primarily for the trier of fact. *See State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. Consequently, we overrule the second assignment of error.

Accordingly, we 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.

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

To the clerk:

Enter upon the journal of the court on August 27, 2021,  
per order of the court  \_\_\_\_\_  
Administrative Judge