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

STATE OF OHIO,	:	APPEAL NO. C-190449 TRIAL NO. 19CRB-16341
Plaintiff-Appellee,	:	*JUDGMENT ENTRY.*
vs.	:	
JEFFREY ROBERTS,	:	
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 Jeffrey Roberts is the father of a child with Laginina Ligon. In the early morning hours of June 28, 2019, Roberts returned home late from work. Ligon was at his apartment with their child, and the two began to argue about his late arrival. Eventually Roberts demanded that Ligon leave. Ligon retrieved the child and began to walk down the street. Roberts got into his vehicle and drove up to Ligon to get the child back. Ligon placed the child in the back seat of the car and got in the front seat when Roberts offered to give her a ride.

The argument continued from that point. Ligon claimed that Roberts began punching her in the face. Roberts claimed that Ligon was the aggressor, and he was just shoving her in self-defense. He claimed that Ligon was punching him while he was simply trying to take the child back to safety. He testified that it was "possible" that his shoving had caught her in the face a few times. Ligon got out of the car and called 911 from a neighbor's home. The officer who responded saw Ligon, who was crying and bleeding from the face. Her injuries were such that paramedics were called to the scene. When the officer engaged with Roberts, he became aggressive and threatened the officer to the point that the officer had to call for backup and restrain Roberts while the investigation was continued.

Roberts was charged with domestic violence, and the case was tried without a jury. The main issue for the trial court to determine was whether Roberts had acted in self-defense during the encounter. During closing arguments, the issue of the change in the statutory language for self-defense was addressed by defense counsel. Counsel stated the following:

> I will note, I am sure the Court is aware self-defense law has changed in March of this year, that now it is any evidence that tends to support the defendant acted in self-defense, * * * the burden shifts and it's the State's burden to prove beyond a reasonable doubt that Mr. Roberts did not act in self-defense that day.
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> We have the evidence that tends to support that. That being the prosecuting witness, Ms. Ligon's testimony that she was the one who made this a physical argument by swinging and scratching at Mr. Roberts['s] face after Mr. Roberts grabbed the child from the car seat.
>
> Because of that testimony, the State has been unable to prove beyond a reasonable doubt that one essential element, that Mr. Roberts did not act in self-defense.
>
> * * *
>
> Judge, the State has the burden here of beyond a reasonable doubt, had to meet every element including self-defense, which is that Mr. Roberts did not start this situation, that he didn't start this situation, that he used appropriate force and the State hasn't proved that Mr. Roberts did not - - the State had to prove that Mr. Roberts did not act in self-defense, that element beyond a reasonable doubt.
>
> Judge, there is reasonable doubt in this case.

In its closing argument, the state did not mention the new version of the statute and did not attempt to dispute defense counsel's explanation of the law during its rebuttal. At the conclusion of closing argument, the trial court announced its

decision, simply stating that "[b]ased on the evidence presented and the testimony that was presented, I'm going to find you guilty of domestic violence." The trial court then convicted Roberts of domestic violence. In two assignments of error, Roberts now appeals.

In his first assignment of error, Roberts claims that the trial court erred when it failed to apply the current version of self-defense law. The crux of Roberts's argument is that the record does not affirmatively show that the trial court did the proper analysis under R.C. 2901.05(B)(1). Counsel wrote that "[t]he trial court found Mr. Roberts guilty of domestic violence but did not address the self-defense argument. This was error. * * * The trial court, however, did not engage in any analysis under the current version of R.C. 2901.05(B)(1). Because the trial court failed to apply the correct law, Mr. Roberts asks this Court to reverse and remand for a new trial."

In the absence of evidence to the contrary, a reviewing court presumes that the trial court has applied the correct law. *See State v. Coombs*, 18 Ohio St.3d 123, 125, 480 N.E.2d 414 (1985), citing *State v. Eubank*, 60 Ohio St.2d 183, 398 N.E.2d 567 (1979); *see also State v. Doyle*, 8th Dist. Cuyahoga No. 79981, 2002-Ohio-2574, ¶ 52 (trial court presumed to understand sexual-predator-classification options when record is silent); *State v. Cash*, 193 Ohio App.3d 224, 2011-Ohio-1404, 951 N.E.2d 486, ¶ 67 (trial court presumed to have properly found defendant guilty even though trial court did not announce that the guilty finding was "beyond a reasonable doubt").

Far from affirmatively demonstrating that the trial court failed to consider and apply the new version of the statute, the record demonstrates that the trial court did so. Defense counsel expressly argued that the state had the burden to prove absence of justified self-defense and that it had not done so. The state did not argue to the contrary, and the trial court made no reference to which version of the statute it followed.

The basis for Roberts's claim appears to be that the trial court "did not engage in any analysis under the current version" of the statute. But Crim.R. 23(C) sets forth that "[i]n a case tried without a jury the court shall make a general finding." Thus, the trial court is not required to make any statement on the record, at the conclusion of a bench trial, other than the finding of guilt. *See State v. Lantz*, 5th Dist. Fairfield No. 01 CA 38, 2002-Ohio-3838, ¶ 31 (after bench trial, trial court was not required to make specific finding as to elements of offense to find defendant guilty); *see also State v. Dear*, 10th Dist. Franklin No. 14AP-298, 2014-Ohio-5104, ¶ 12 (same); *State v. Arnold*, 8th Dist. Cuyahoga No. 103626, 2016-Ohio-7047, ¶ 22 (no requirement to specifically find on the "likely to be present" element of burglary before trial court could make guilty finding after bench trial). In fact, "even if Appellant had made a specific request for findings of fact and conclusions of law, the trial court would have been correct in ignoring it based on Crim.R. 23(C)." *State v. Willig*, 7th Dist. Mahoning No. 06 MA 114, 2008-Ohio-1184, ¶ 11, citing *State v. Walker*, 26 Ohio App.3d 29, 31, 498 N.E.2d 191 (8th Dist.1985).

The trial court was not required to make specific findings that would indicate which version of the self-defense statute it had followed, and the record does not positively establish that the trial court failed to follow the appropriate law. We overrule Roberts's first assignment of error.

In his second assignment of error, Roberts claims that his conviction for domestic violence was contrary to the manifest weight of the evidence. The basis for this claim was that his version of the events that occurred was more credible than the version testified to by Ligon.

When considering a challenge to the weight of the evidence, the 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). Reversing a conviction as being against the manifest weight of the evidence should be reserved for only the most " 'exceptional case in which the evidence weighs heavily against the conviction.' " *Id.*, quoting *State v. Martin*, 20 Ohio App.3d 172, 485 N.E.2d 717 (1st Dist.1983), paragraph three of the syllabus.

Matters as to the credibility of evidence are for the trier of fact to decide. *State v. Bryan*, 101 Ohio St.3d 272, 2004-Ohio-971, 804 N.E.2d 433, ¶ 116. This is particularly true regarding the evaluation of witness testimony. *State v. Williams*, 1st Dist. Hamilton Nos. C-060631 and C-060668, 2007-Ohio-5577, ¶ 45, citing *Bryan*, and *State v. Russ*, 1st Dist. Hamilton No. C-050797, 2006-Ohio-6824, ¶ 23. The court should not reverse a conviction, as against the manifest weight of the evidence, because the trial court chose one credible version of events over another. *State v. Fry*, 9th Dist. Medina No. 16CA0057-M, 2017-Ohio-9077, ¶ 13, citing *State v. Tabassum*, 9th Dist. Summit No. 25568, 2011-Ohio-6790, ¶ 27.

In this case, the trial court was presented with two versions of the events that occurred. The trial court had the chance to observe the demeanor of the witnesses and was in the best position to weigh their credibility. The record in this case does not present a situation where the court could conclude that the factfinder clearly lost its way and created a manifest miscarriage of justice. We overrule Roberts's second 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., BERGERON and **CROUSE, JJ.**

To the clerk:

Enter upon the journal of the court on December 16, 2020,

per order of the court _____.

Presiding Judge