

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

STATE OF OHIO,	:	APPEAL NO. C-150435
	:	TRIAL NO. 15CRB-6764
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ALEXIA FOSTER,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a bench trial in the Hamilton County Municipal Court, defendant-appellant Alexia Foster was convicted of assault in violation of R.C. 2903.13 for knowingly causing physical harm to Antonio Dennard.

At trial, Dennard and his girlfriend testified that Dennard's ex-girlfriend, Nicole Powell, and Foster had pursued them across town in a car and then had physically attacked him. Dennard said that he had called 911 three times from the scene of the attack, and admitted that it was not until his third call that he mentioned a gun had been pointed at him from the pursuing vehicle. An investigating officer testified that Dennard's clothing was tattered and that he had sustained wounds to his head and arm.

In her defense, Foster testified that it was Dennard who had been in pursuit of Powell's car. Foster claimed that during Dennard's pursuit, he had pointed a gun at them and then raced away, forcing them to follow him to get his license-plate number for a police report. Foster testified that Powell and Dennard had then gotten into a fistfight, while she had remained in Powell's car.

In her first assignment of error, Foster challenges the weight and sufficiency of the evidence supporting her conviction. Following our review of the record, we hold that a rational factfinder could have found that the state had proved beyond a reasonable doubt that Foster had committed assault. *See State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus. Therefore, the evidence presented was legally sufficient to sustain her conviction. Although Foster testified to a different version of the events, the weight to be given the evidence as well as the credibility of the witnesses was primarily for the trier of fact to determine. *See State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. Moreover, we are not persuaded that the trial court clearly lost its way and created a manifest miscarriage of justice in finding Foster guilty of assault. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). We overrule the first assignment of error.

In her second assignment of error, Foster argues that the trial court abused its discretion by not allowing defense counsel to recross-examine Dennard. Specifically, Foster contends that the court should have allowed the defense to explore Dennard's testimony on redirect examination that Foster had had a gun.

The record demonstrates that the defense was the first to elicit Dennard's testimony about the gun during cross-examination. The defense had the opportunity to fully explore the testimony during cross-examination, and the state did not inquire

into new areas during redirect examination. *See State v. Faulker*, 56 Ohio St.2d 42, 46, 381 N.E.2d 934 (1978); *State v. Rosemond*, 1st Dist. Hamilton No. C-060578, 2007-Ohio-6333, ¶ 7. Consequently, we hold that the trial court did not abuse its discretion when it refused to allow Foster to recross-examine Dennard about the gun. We overrule the second assignment of error.

In her third assignment of error, Foster argues that the trial court's comments at the conclusion of the trial demonstrated that it had improperly shifted the burden of proof from the state to the defense, so that it had required Foster to prove her innocence. However, as the trier of fact, the trial court was tasked with assessing the credibility of the witnesses, and its remarks simply reflected its assessment. We overrule the third assignment of error and affirm the judgment of the trial court.

Further, 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.

HENDON, P.J., CUNNINGHAM and DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on February 24, 2016
per order of the court _____.
Presiding Judge