

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

STATE OF OHIO,	:	APPEAL NO. C-150509
Plaintiff-Appellee,	:	TRIAL NO. 14CRB-33821
vs.	:	<i>JUDGMENT ENTRY.</i>
CRYSTAL DAWSON	:	
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, defendant-appellant Crystal Dawson was found guilty of assault, in violation of R.C. 2903.13. The trial court sentenced her to 180 days' incarceration, suspended the jail term, and imposed one year of community control. The court also fined her \$100 and ordered her to pay court costs. This appeal followed.

Dawson and victim Patricia Smith both lived in the Stanley Rowe Towers ("the Towers"). Dawson was also employed there as a laundry attendant. One morning while Dawson was cleaning the laundry room, Smith appeared and apparently began to verbally harass her. According to Dawson and Dawson's mother, who was also present, Smith threatened to go to her apartment and retrieve a gun. Shortly thereafter, Dawson physically attacked Smith. At trial, the state played a videotaped recording from a lobby security camera that depicted this altercation. The videotape footage showed Dawson attack Smith from behind.

Dawson continued hitting Smith, pushing and dragging her, and pulling her hair until others intervened and eventually pulled Dawson off of Smith.

In her first assignment of error, Dawson claims that the state failed to preserve materially exculpatory evidence in violation of her Fourteenth Amendment right to due process of law. More specifically, Dawson asserts that the state failed to preserve videotape footage from a camera in the Towers' recreation room. Dawson claims that this videotape footage would have shown that Smith was "a willing participant in an ongoing dispute." We need not address the merits of this argument, however, because there is no indication that the footage ever existed. The only reference in the record to a recreation-room videotape came from Matthew Roberts, who was in charge of overseeing safety operations at the Towers. He testified that there had been "operational issues" with the recreation-room video camera, implying that there was no recreation-room videotape in existence. The topic was not explored further.

Dawson is therefore unable to demonstrate her assigned error through reference to matters in the record, as is her burden. See *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199, 400 N.E.2d 384 (1980); *State v. Patterson*, 128 Ohio App.3d 174, 177-78, 714 N.E.2d 409 (1st Dist.1988). Dawson's first assignment of error is overruled.

In her second assignment of error, Dawson claims that the trial court erred when it would not allow witness Laurice Johnson to testify as to Smith's reputation. Dawson also asserts that the trial court erred when it would not allow witness Yolanda Nash to testify to matters that allegedly would have impeached Smith's credibility. Both of these arguments fail because there was no proffer made to the trial court concerning what either witnesses' testimony would have been. We therefore have nothing to review on appeal, and must affirm the trial court's ruling.

*See State v. Chapin*, 67 Ohio St.2d 437, 444, 424 N.E.2d 317 (1981). Dawson's second assignment of error is overruled.

In her third assignment of error, Dawson claims that the trial court's judgment finding her guilty of assault in violation of R.C. 2903.13 was not supported by sufficient evidence and was also against the weight of the evidence.

In a challenge to the sufficiency of the evidence, the question is whether after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found all the essential elements of the crime beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus. In regard to the weight of the evidence, we review the entire record, weigh the evidence, consider the credibility of the witnesses, and determine whether 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).

Here, the state presented videotape evidence that Dawson attacked Smith from behind, and that Dawson pushed, pulled, and hit Smith, and also pulled her hair. Smith testified that she had been injured as a result. This was sufficient evidence to convict Dawson of assault. And while Dawson's defense centered on excusing her behavior to some degree due to Smith's behavior immediately preceding Dawson's attack, there is no indication that the trial court so erred in weighing the evidence presented as to create a manifest miscarriage of justice. Dawson's third assignment of error is overruled.

The trial court's judgment is affirmed.

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.

**FISCHER, P.J., CUNNINGHAM and STAUTBERG, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

---

To the clerk:

Enter upon the journal of the court on June 8, 2016  
per order of the court \_\_\_\_\_.

Presiding Judge