

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

IN RE: A.B. : APPEAL NOS. C-170349
C-170350
: TRIAL NOS. 17-264Z
17-265Z
: *JUDGMENT ENTRY.*

We consider these appeals 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.

Following a bench trial, 17-year-old A.B. was adjudicated delinquent for committing acts that had he been an adult would have constituted the offenses of aggravated burglary and felonious assault, with accompanying firearm specifications. In a single assignment of error, A.B. argues that the juvenile court's delinquency findings were based upon insufficient evidence and were against the manifest weight of the evidence.

The state presented evidence that A.B. and an accomplice forced their way into the victim's home. When A.B. pointed a gun at the victim, the victim began struggling with him for control of the gun. During the struggle, the victim was struck in the face with the gun and shots were fired, one of which struck and injured A.B. The accomplice and A.B. fled in a vehicle. As they drove away, they fired shots at the victim's house.

When police arrived, they asked the victim about his bloody and red face. As seen on video footage from a police officer's body camera, the victim informed them

that he had been struck in the face with a gun. A bullet hole was found in a jacket worn by the victim. Bullet holes were also observed in the floor of the victim's living room and in the outside wall of the victim's house. In addition, the victim identified a B.B. gun found in his living room as being one of the "multiple guns" that A.B. and his accomplice had brought with them. Casings for 0.380-caliber ammunition were found in the street in front of the victim's house.

Shortly after the police began investigating the incident, a local hospital reported that a young man, later identified as A.B., had suffered a gunshot wound. No bullet was recovered from A.B. Testing revealed gunshot residue on both of A.B.'s hands. The victim identified A.B. as the one who struck him with a gun.

On appeal, A.B. does not dispute that he was shot by an operable firearm. He contends, however, that the evidence indicated that he possessed a B.B. gun, not a firearm. Following our review of the record, however, we hold that a rational trier of fact, viewing the evidence in a light most favorable to the state, could have found that the state had proved beyond a reasonable doubt that A.B. had committed the offenses of aggravated burglary, R.C. 2911.11(A)(2), and felonious assault, R.C. 2903.11(A)(2), with accompanying firearm specifications. *See State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus. Therefore, the evidence was legally sufficient to sustain his adjudications.

In finding A.B. guilty of the offenses, the trial court explained that it found the victim to be a credible witness. As the trier of fact, the court was in the best position to judge the credibility of the witnesses. *See State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus; *State v. Railey*, 2012-Ohio-4233, 977 N.E.2d 703, ¶ 14 (1st Dist.). The adjudications were not against the manifest weight of the evidence. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997).

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Therefore, we overrule the sole assignment of error and affirm the trial court's judgment.

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.

CUNNINGHAM, P.J., MYERS and MILLER, JJ.

To the clerk:

Enter upon the journal of the court on June 15, 2018
per order of the court _____.
Presiding Judge