

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

STATE OF OHIO,	:	APPEAL NO. C-170444
	:	TRIAL NO. 16CRB-2863
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
HARVEY WYCHE,	:	
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.

In one assignment of error, defendant-appellant Harvey Wyche claims that his conviction for assault in violation of R.C. 2903.13(A) was contrary to the manifest weight of the evidence. During a trial to the bench, his girlfriend testified that Wyche threw her against the wall several times and choked her during the course of an argument. The state also presented photographs of marks on her body consistent with her testimony. Wyche testified that, while the couple had argued, he had not physically attacked her. The trial court concluded that Wyche had been evasive during his testimony, and that his version of events “made no sense to the Court.”

In order to conclude that a conviction is contrary to the manifest weight of the evidence, this court must find that the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. *State v. Thompson*, 78 Ohio St.3d 380, 387, 678 N.E.2d 521 (1997). Wyche has failed to demonstrate that in this case. The evidence presented by the state, which the trial court found to be credible, established that he committed the offense of assault. Credibility issues are primarily for the trier of fact to decide since the trier of fact is in the best position to judge the credibility of the witnesses and the

**OHIO FIRST DISTRICT COURT OF APPEALS**

---

weight to be given to the evidence. *See State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967); *State v. Loudermilk*, 2017-Ohio-7378, 96 N.E.3d 1037, ¶ 6 (1st Dist.).

Wyche's conviction for assault was not contrary to the manifest weight of the evidence. We overrule his sole 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., MYERS and MILLER, J.J.**

To the clerk:

Enter upon the journal of the court on June 27, 2018  
per order of the court \_\_\_\_\_.  
Presiding Judge