

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

STATE OF OHIO,	:	APPEAL NO. C-160636
Plaintiff-Appellee,	:	TRIAL NO. 16CRB-7721
vs.	:	<i>JUDGMENT ENTRY.</i>
BRIAN GRAY	:	
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.

Following a bench trial, Brian Gray was convicted of aggravated menacing. In one assignment of error, Gray now contends that his conviction was against the manifest weight of the evidence.

R.C. 2903.21(A) provides, in relevant part, that no person “shall knowingly cause another to believe that the offender will cause serious physical harm to the person * * * .” At trial, Felix Maye testified that, following a heated confrontation at Gray’s apartment over a dog that Gray had been keeping there, Gray said to Felix, “I’ll f**k you up,” and also pulled out a gun. Melinda Maye, Felix’s mother, had accompanied Felix to Gray’s apartment. She corroborated Felix’s testimony that Gray had had a gun and was displaying it in a threatening manner. Gray testified in his own defense. He denied verbally threatening Felix and denied having a gun.

OHIO FIRST DISTRICT COURT OF APPEALS

Jasmine Maye, who lived with Gray and had witnessed part of the altercation between Felix and Gray, testified that Gray had not threatened Felix in any way.

Credibility determinations are primarily for the trier of fact. *State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. The trial court chose to believe the state's witnesses. While Gray presented a version of events that, if believed, would have exonerated him, we find no indication that the trial court so "lost its way" in weighing the evidence presented so as to create a manifest miscarriage of justice warranting a new trial. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541(1997), citing *State v. Martin* (1983), 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

Gray's sole 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.

MOCK, P.J., MILLER and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on August 16, 2017
per order of the court _____.

Presiding Judge