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

STATE OF OHIO,	:	APPEAL NO. C-160783 TRIAL NO. C-16CRB-20610
Plaintiff-Appellee,	:	
vs.	:	
QUEENJANIKA MITCHEM,	:	*JUDGMENT ENTRY.*
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.

After a bench trial, Queenjanika Mitchem was convicted of aggravated menacing, in violation of R.C. 2903.21. In her sole assignment of error, she argues that the conviction was against the manifest weight of the evidence because she acted in self-defense and in defense of others. Finding no merit in her assignment of error, we affirm the trial court's judgment.

The evidence at trial demonstrated that Mitchem and Irvine Bright engaged in a "road rage" incident. Bright testified that when he started to back up in front of Mitchem, she honked at him, got out of her car, and began shouting and cursing at him. He said that after he turned onto the road, Mitchem followed him, pulled up next to him, and continued to shout and curse. According to Bright, when he attempted to make a right-hand turn, she swerved toward his car and again started cursing. Bright threw a 20-ounce plastic bottle of cherry coke at her car and sped off. Seconds later, Bright testified that Mitchem pulled up next to him, pointed a gun at him, and hollered, "Do that shit again, do you want to die?" Immediately afterwards, Bright called the police.

Mitchem's front-seat passenger, Carlita Jones, testified that Bright was

deliberately driving slowly so Mitchem's car would catch up to his. Jones testified that when the cars were stopped side-by-side at a red light, Mitchem did not speak to or shout at Bright. When the light turned green, Bright threw the bottle at the car and scared Mitchem, Jones, and the four children in the car. At that point, Mitchem showed her gun but did not remove it from its holster or point it at Bright.

When reviewing a claim of manifest weight, we must determine whether the defendant has demonstrated that, upon consideration of the evidence, all reasonable inferences, and the credibility of the witnesses, the factfinder "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. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997), quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983). The testimony of one witness, if believed by the factfinder, is sufficient to support a conviction. *See State v. Hsu*, 2016-Ohio-4549, 66 N.E.3d 1124, ¶ 33 (1st Dist.).

To prove self-defense or defense of others, Mitchem had to prove, by a preponderance of the evidence, that (1) she was not at fault in creating the situation; (2) she had a good faith belief that she or others were in imminent danger of death or great bodily harm and her only means of escape was the use of such force; and (3) she did not violate any duty to retreat or avoid the danger. *See State v. Henderson*, 1st Dist. Hamilton No. C-130541, 2014-Ohio-3829, ¶ 14.

Although Jones testified that Mitchem did not shout or curse at Bright and did nothing to provoke Bright to throw the bottle, the trial court found that Bright's testimony was more credible. The trial court was well within its authority as factfinder to find that Bright's testimony was more credible than Jones'. *See State v. Antill*, 176 Ohio St. 61, 67, 197 N.E.2d 548 (1964). By concluding that Bright's testimony regarding Mitchem's actions was more credible, the court found that Mitchem was at fault in creating the situation, and therefore, failed to prove self-defense or defense of others. *See Henderson* at ¶ 31.

Therefore, we cannot find that there was a manifest miscarriage of justice, or that the trial court clearly lost its way in convicting Mitchem of aggravated menacing.

The assignment of error is overruled. Accordingly, 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.

ZAYAS, P.J., MILLER and **DETERS, JJ.**

Enter upon the journal of the court on September 20, 2017

per order of the court _____.

Presiding Judge