[Cite as *In re M.C.*, 2011-Ohio-2541.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

In the Matter of:	:	
		No. 10AP-491
M.C.,	:	(C.P.C. No. 09JU-06-8447)
Appellant.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on May 26, 2011

Yuera R. Venters, Public Defender, and *David L. Strait*, for appellant.

Ron O'Brien, Prosecuting Attorney, and *Katherine J. Press*, for appellee.

APPEAL from the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch

CONNOR, J.

{¶1} Appellant, M.C., appeals from the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch, wherein the trial court adopted the magistrate's decision reaffirming appellant a delinquent minor on a charge of menacing in violation of R.C. 2903.22, a fourth degree misdemeanor. For the reasons that follow, we affirm the judgment of the trial court.

{¶2} This case arises out of a verbal altercation that occurred on May 21, 2009 on a playground at Linden Elementary School. As a result, on June 18, 2009, a complaint was filed alleging that appellant, a minor, had committed the offense of

menacing. The matter came before a magistrate for a trial on October 9, 2009. On October 22, 2009, the magistrate found that appellant was a delinquent minor, having committed the offense of menacing. Appellant filed an objection to the magistrate's decision on October 26, 2009 and a supplement to her objection on January 22, 2010. Appellee, the state of Ohio, filed briefs in support of the magistrate's decision. On April 13, 2010, the trial court overruled appellant's objection. Appellant filed an untimely notice of appeal but filed a motion for a delayed appeal, which this court granted. By way of appellant's appeal, she raises the following assignments of error:

First Assignment of Error

> Appellant's conviction was not supported by sufficient evidence.

Second Assignment of Error

> Appellant's conviction is against the manifest weight of the evidence.

{¶3} In her assignments of error, appellant raises sufficiency and manifest weight challenges, which we will address together.

{¶4} A challenge to the sufficiency of the evidence questions whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found all of the essential elements of the crime beyond a reasonable doubt. See *State v. Jenks* (1991), 61 Ohio St.3d 259, paragraph two of the syllabus. An appellate court will not disturb the verdict unless it determines that reasonable minds could not arrive at the conclusion reached by the trier of fact. *State v. Treesh*, 90 Ohio St.3d 460, 484, 2001-Ohio-4; *Jenks* at 273. Whether the evidence is legally sufficient to

sustain a verdict is a question of law. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52.

{¶5} When presented with a manifest weight challenge, an appellate court must review the entire record, weigh the evidence, consider the credibility of the witnesses and determine whether, in resolving any conflicts in the evidence, the jury clearly lost its way and thereby created such a manifest miscarriage of justice that the conviction must be reversed and a new trial must be ordered. *Thompkins* at 387, citing *State v. Martin* (1983), 20 Ohio App.3d 172, 175. A conviction should be reversed on manifest weight grounds only in the most " 'exceptional case in which the evidence weighs heavily against the conviction.' " Id. at 387, quoting *Martin* at 175. Moreover, " 'it is inappropriate for a reviewing court to interfere with factual findings of the trier of fact * * * unless the reviewing court finds that a reasonable juror could not find the testimony of the witness to be credible.' " *State v. Brown*, 10th Dist. No. 02AP-11, 2002-Ohio-5345, ¶10, quoting *State v. Long* (Feb. 6, 1997), 10th Dist. No. 96APA04-511.

{¶6} The menacing statute provides: "No person shall knowingly cause another to believe that the offender will cause physical harm to the person * * * or a member of the other person's immediate family." R.C. 2903.22. Therefore, to adjudge appellant as delinquent for having committed the offense of menacing, the trier of fact had to find that she knowingly caused Jessica Calhoun to believe that she was going to cause physical harm to her or her immediate family. See also *State v. Kendrick*, 1st Dist. No. C-100141, 2011-Ohio-212, ¶13.

{¶7} The only argument appellant presents in this appeal is that the victim, Ms. Calhoun, was not scared by appellant's threats. In fact, however, Ms. Calhoun's

testimony about her fear was more limited than that. She never testified that she was not scared by appellant's threats in general. Rather, she testified that she was not scared by the thought that appellant could hit her or fight her. (Oct. 9, 2009 Tr. 8.) According to her testimony, Ms. Calhoun would have rather been attacked as opposed to allowing it to happen to her children. (Oct. 9, 2009 Tr. 12.) Nevertheless, Ms. Calhoun testified that she thought appellant was going to harm her and/or her family. (Oct. 9, 2009 Tr. 8.) She held this belief because appellant said that she was going to give Ms. Calhoun a black eye. (Oct. 9, 2009 Tr. 15.) Appellant readily admits that she made this threat, and upon further inquiry, explained that she was going to punch Ms. Calhoun in the eye. (Oct. 9, 2009 Tr. 30.) According to Ms. Calhoun, appellant also said that Ms. Calhoun's children should stay away from the playground, or they would be beaten up. (Oct. 9, 2009 Tr. 13.) Ms. Calhoun was really upset by the fact that appellant wanted to hurt her children. (Oct. 9, 2009 Tr. 17.) Based upon appellant's threats, Ms. Calhoun does not believe her children will be safe at the playground in the future, unless she accompanies them. (Oct. 9, 2009 Tr. 11.)

{¶8} The offense of menacing concerns threats of physical harm that may occur in the present and/or the future. *State v. Ali*, 154 Ohio App.3d 493, 2003-Ohio-5150, ¶26 (Internal citations omitted). In other words, culpability exists without regard for the timing of the harm. Further, "a victim need not articulate a precise fear. It is sufficient for the State to establish the victim's general fear for the safety of [herself], the members of [her] immediate family, and/or [her] property." *State v. Howard*, 2d Dist. No. 23588, 2010-Ohio-5158, ¶14.

{¶9} After reviewing the evidence in a light most favorable to appellee, a rational trier of fact could have found all of the essential elements of the offense of menacing beyond a reasonable doubt. Accordingly, there was sufficient evidence supporting the judgment. Further, after reviewing the record as a whole, we cannot say that the evidence weighs heavily against a conviction, that the trier of facts lost its way, or that a manifest miscarriage of justice has occurred. The judgment is not against the manifest weight of the evidence merely because Ms. Calhoun testified that she was not scared about the possibility of being hit by appellant or getting in a fight with appellant. There is ample other evidence supporting the conclusion that appellant engaged in conduct sufficient to constitute the offense of menacing. The judgment is not against the manifest weight of the evidence.

{¶10} Based upon the foregoing, we overrule appellant's two assignments of error and affirm the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch.

Judgment affirmed.

BROWN and FRENCH, JJ., concur.