

[Cite as *State v. Abuzahrieh*, 2003-Ohio-6620.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 82690

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	JOURNAL ENTRY
	:	
-VS-	:	AND
	:	
HAZIM ABUZAHRIEH	:	OPINION
	:	
Defendant-Appellant	:	

Date of Announcement
of Decision: DECEMBER 11, 2003

Character of Proceeding: Criminal appeal from
Court of Common Pleas
Case No. CR-425072

Judgment: Reversed and remanded.

Date of Journalization:

Appearances:

For Plaintiff-Appellee: WILLIAM D. MASON
Cuyahoga County Prosecutor
1200 Ontario Street
Cleveland, Ohio 44113

For Defendant-Appellant: MARK B. MAREIN, ESQ.
222 Leader Building
526 Superior Avenue
Cleveland, Ohio 44114

JAMES J. SWEENEY, P.J.

{¶1} Defendant-appellant Hazim Abuzahrieh appeals from his conviction following a jury verdict finding him guilty of misdemeanor assault. For the reasons that follow, we reverse and remand.

{¶2} The State indicted defendant and his brother, co-defendant Ihab Abuzahrieh, on one count of felonious assault arising from an altercation in a restaurant lounge. The matter proceeded to a joint trial in January 2003. On the second day of jury voir dire, the court announced its intention to conduct the voir dire and prohibited any further questioning of the jurors by counsel. Defendant testified on his own behalf. While the co-defendant did not testify, the court permitted the State to introduce the co-defendant's alleged statements through the testimony of the investigating officer. At the conclusion of trial, the jury found defendant guilty of the lesser-included offense of assault and the court entered judgment and sentenced defendant accordingly.

{¶3} Defendant commenced this appeal, which is pending simultaneously with the co-defendant's appeal that presents a common assignment of error, as follows:

{¶4} "II. The trial court erred in terminating trial counsel's participation in voir dire."

{¶5} We have fully addressed this error in *State v. Abuzahrieh*, Cuyahoga App. No. 82689, 2003-Ohio-6639, wherein it was sustained. Accordingly, we incorporate the reasoning

set forth therein as if fully rewritten here and sustain defendant's second assignment of error.

{¶6} Appellant's first assignment of error is overruled as moot. See App.R. 12(A)(1)(c).

{¶7} The judgment of conviction is reversed and the matter is remanded for a new trial on the authority of *Abuzahrieh*, supra.

It is ordered that appellant recover of appellee his costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

TIMOTHY E. McMONAGLE, J., and

SEAN C. GALLAGHER, J., CONCUR.

JAMES J. SWEENEY
PRESIDING JUDGE

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. 112, Section 2(A)(1).