

[Cite as *State v. Linson*, 2004-Ohio-3750.]

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

STATE OF OHIO,	:	APPEAL NO. C-030299
	:	TRIAL NO. C-03CRB-1460
Plaintiff-Appellee,	:	
vs.	:	<i>DECISION.</i>
MARCUS LINSON,	:	
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: July 16, 2004

Michael K. Allen, Hamilton County Prosecuting Attorney, and *Ronald W. Springman, Jr.*,
Chief Appellate Assistant Prosecuting Attorney, for Appellee,

Charles H. Bartlett, Jr., for Appellant.

Please note: This case has been removed from the accelerated calendar.

MARK P. PAINTER, Judge.

{¶1} Defendant-appellant Marcus Linson appeals his conviction for domestic violence,¹ a first-degree misdemeanor. After a bench trial, the court found Linson guilty and sentenced him to 180 days of home incarceration, suspending 150 days. We affirm.

{¶2} Linson and Tashanna Williams have a child together, Braylin, who was born in 1995. On January 12, 2003, at about 10:00 PM, Braylin was at Linson's mother's house, where Linson also lived. Williams testified that Linson called her and asked her to come pick their son up. Williams asked Linson to let the boy stay the night there, but eventually she drove to the grandmother's house to get him.

{¶3} Williams testified that when she arrived at the Linson residence and got out of her car, Linson grabbed her and threw her on the ground. She testified that Linson screamed at her and kicked her several times. Williams stood up and went to the window of the house. Linson again grabbed her and threw her down on the ground. Williams testified that she then got up and banged on the side door, shouting for Linson's mother to call the police.

{¶4} Williams testified that Linson's mother yelled at her to get back in her car, which she did. Linson's mother brought Braylin out to the car and put him in. Williams then drove down the street to a gas station and called the police. Williams testified that she had bruises on her left leg.

{¶5} Woodlawn Police Officer George Wells testified that he responded to Williams's 911 call and met her at the gas station. He testified that Williams was very upset and crying. She told him that her ex-boyfriend, the father of her baby, had assaulted her. Wells testified that she had a bruise on her lower left knee.

¹ R.C. 2919.25(A).

{¶6} Linson testified that he was on the porch when Williams pulled into the driveway of his house. According to him, Williams came up on the porch and then attempted to enter the house. Linson testified that he did not want her to enter the house, so he shut the door and made her wait outside while his mother brought Braylin out to the car. Linson admitted that he was upset and that he and Williams were arguing, but denied that he had grabbed her, thrown her on the ground, or kicked her.

{¶7} Linson's mother testified that she was inside with Braylin when she heard knocking on the door. She stated that Braylin was terrified by the commotion outside, and that she did not observe the interaction between Williams and her son because she was busy consoling the boy. She testified that she told Williams several times to get in the car and to lock the doors. She stated that she told Williams that she would bring Braylin out to the car, and that she did so.

{¶8} In his one assignment of error, Linson argues that there was insufficient evidence to support his conviction, and that his conviction was against the manifest weight of the evidence.

{¶9} In criminal cases, the legal concepts of sufficiency of the evidence and weight of the evidence are distinct.² A challenge to the sufficiency of the evidence attacks the adequacy of the evidence presented. Whether the evidence is legally sufficient to sustain a conviction is a question of law.³ The relevant inquiry in a claim of insufficiency is whether any rational factfinder, viewing the evidence in a light most favorable to the state, could have found the essential elements of the crime proved beyond a reasonable doubt.⁴

² See *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541.

³ *Id.*

⁴ See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus.

{¶10} A challenge to the weight of the evidence attacks the credibility of the evidence presented.⁵ When evaluating the manifest weight of the evidence, we must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving conflicts in the evidence, 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.⁶ The discretionary power to reverse should be invoked only in exceptional cases “where the evidence weighs heavily against the conviction.”⁷

{¶11} Linson was convicted of domestic violence. The domestic-violence statute states, “No person shall knowingly cause or attempt to cause physical harm to a family or household member.”⁸

{¶12} The state offered the testimony of two witnesses, Williams and Officer Wells. Williams testified that Linson had grabbed her and thrown her on the ground two times. She also stated that Linson had kicked her several times and that she had bruises on her left leg. Officer Wells testified that Williams had appeared upset and was crying immediately after the incident with Linson. He testified that Williams stated that Linson had assaulted her and that she had a bruise on her left leg.

{¶13} Linson argues that because Williams “only had one bruise” and did not seek medical attention, the state failed to meet its burden. The state counters that, under the statute, one visible injury was more than enough.

{¶14} We agree with the state that one visible injury was more than enough and note that the statute does not require that the victim seek medical attention. We conclude

⁵ See *State v. Thompkins*, supra, at 387.

⁶ See id.; *State v. Martin* (1983), 20 Ohio App.3d 172, 175, 485 N.E.2d 717.

⁷ See *State v. Martin*, supra.

⁸ R.C. 2919.25(A).

that a rational factfinder, viewing the evidence in a light most favorable to the state, could have found that the state had proved beyond a reasonable doubt that Linson had committed domestic violence. Therefore, the evidence presented was legally sufficient to sustain Linson's conviction.

{¶15} At trial, Linson offered a different version from Williams of what had happened when she came to pick up their son. He testified that he and Williams had argued and that she had attempted to enter the house, but he denied that he had grabbed her, thrown her to the ground, or kicked her. Given the conflicting accounts, the trier of fact was free to believe some, all, or none of the testimony of the witnesses. Our review of the record does not persuade us that the factfinder clearly lost its way or created a manifest miscarriage of justice in finding Linson guilty of domestic violence. Therefore, his conviction was not against the manifest weight of the evidence.

{¶16} Accordingly, we overrule Linson's assignment of error and affirm his conviction.

Judgment affirmed.

WINKLER, P.J., and HILDEBRANDT, J., concur.

Please Note:

The court has recorded its own entry on the date of the release of this decision.