

IN THE COURT OF APPEALS  
TWELFTH APPELLATE DISTRICT OF OHIO  
BUTLER COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. CA2014-02-040
- vs -	:	<u>OPINION</u> 3/9/2015
TODD A. TAYLOR,	:	
Defendant-Appellant.	:	

CRIMINAL APPEAL FROM HAMILTON MUNICIPAL COURT  
Case No. 14 CRB 00096-A

Geoffrey A. Modderman, Hamilton City Prosecutor, 345 High Street, 7th Floor, Hamilton, Ohio 45011, for plaintiff-appellee

Fred S. Miller, Baden & Jones Bldg., 246 High Street, Hamilton, Ohio 45011, for defendant-appellant

**PIPER, P.J.**

{¶ 1} Defendant-appellant, Todd Taylor, appeals his conviction in the Hamilton Municipal Court for one count of domestic violence.

{¶ 2} Taylor's live-in girlfriend, Renee Johnson, called 911 during an argument she and Taylor were having. Johnson reported to police that Taylor grabbed her around her neck and that he threatened to kill her if she reported it to police. Police responded, and

eventually a complaint was filed against Taylor alleging domestic violence.

{¶ 3} Taylor pled not guilty, and the matter proceeded to a bench trial before the municipal court. The municipal court found Taylor guilty of the domestic violence charge, and ordered him to serve 90 days in jail, with 89 days suspended. Taylor now appeals the municipal court's decision, raising two assignments of error.

{¶ 4} Once again, prosecutors for the Hamilton Municipal Court did not file a brief, and have therefore raised no opposition to Taylor's arguments. Under these circumstances, App.R. 18(C) provides that this court may accept the "appellant's statement of the facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain such action."

{¶ 5} Assignment of Error No. 1:

{¶ 6} THE TRIAL COURT ERRED TO THE PREJUDICE OF DEFENDANT-APPELLANT IN HEARING THE CASE BECAUSE IT LACKED JURISDICTION BY REASON OF A FAULTY COMPLAINT.

{¶ 7} Taylor argues in his first assignment of error that the municipal court lacked jurisdiction to hear the case because the complaint filed against him was not notarized.

{¶ 8} The filing of a valid complaint is a prerequisite to the municipal court obtaining subject-matter jurisdiction. *State v. Mbodji*, 129 Ohio St.3d 325, 2011-Ohio-2880, ¶ 21. Subject-matter jurisdiction cannot be waived or forfeited and can be raised at any time. *Id.* at ¶ 10; Crim.R. 12(C)(2).

{¶ 9} According to Crim.R. 3, "the complaint is a written statement of the essential facts constituting the offense charged. It shall also state the numerical designation of the applicable statute or ordinance. It shall be made upon oath before any person authorized by law to administer oaths."

{¶ 10} While the complaint charging Taylor with domestic violence was not notarized,

it was nonetheless signed by the deputy clerk of the Hamilton Municipal Court, who was authorized to administer the oath required by Crim.R. 3. According to R.C. 1901.31(E), "the clerk of a municipal court may do all of the following: administer oaths, take affidavits, and issue executions upon any judgment rendered in the court \* \* \*." R.C. 1901.31(H) provides, "each deputy clerk \* \* \*, when so qualified, may perform the duties appertaining to the office of the clerk\* \* \*."<sup>1</sup>

{¶ 11} The complaint charging Taylor with domestic violence states, "this day came DEP KELLUM, BUTLER COUNTY SHERIFF, who being duly sworn by me, the undersigned, of the Hamilton Municipal Court, Hamilton, Ohio, says \* \* \*." The complaint then contains a statement of facts to support the domestic violence charge, including a description of Taylor's actions against Johnson. The complaint made reference to the statutory provision that prohibits domestic violence, R.C. 2919.25. The deputy clerk then stated that Deputy Kellum swore and subscribed the information contained in the complaint, and both Deputy Kellum and the deputy clerk signed the complaint.

{¶ 12} As such, the complaint complied with Crim.R. 3 in that it included a statement of the essential facts constituting the offense charged, it stated the numerical designation of the applicable statute or ordinance, and it was made upon oath before the deputy clerk, who was authorized by law to administer oaths. Therefore, the complaint properly invoked the municipal court's jurisdiction, and Taylor's first assignment of error is overruled.

{¶ 13} Assignment of Error No. 2:

{¶ 14} THE TRIAL COURT ERRED TO THE PREJUDICE OF DEFENDANT-APPELLANT WHEN IT CONVICTED HIM OF DOMESTIC VIOLENCE.

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1. While the record does not contain a direct indication that the deputy clerk was qualified to perform the duties of the clerk, Taylor has not asserted that the deputy clerk was not so qualified. Taylor did not raise the validity of the complaint to the municipal court. While he has not waived the issue on appeal and may challenge the municipal court's subject-matter jurisdiction at any time, we will presume the regularities below where there is no indication that the Hamilton Municipal Court's deputy clerk was unqualified to perform the clerk's duties.

{¶ 15} Taylor argues in his second assignment of error that his conviction for domestic violence is not supported by sufficient evidence.

{¶ 16} When reviewing the sufficiency of the evidence underlying a criminal conviction, an appellate court examines the evidence in order to determine whether such evidence, if believed, would support a conviction. *State v. Wilson*, 12th Dist. Warren No. CA2006-01-007, 2007-Ohio-2298. "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus, superseded on other grounds.

{¶ 17} Taylor was charged with domestic violence in violation of R.C. 2919.25(A), which provides, "no person shall knowingly cause or attempt to cause physical harm to a family or household member." According to R.C. 2901.22(B), "a person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist."

{¶ 18} Johnson testified that she and Taylor lived together for approximately eight months, and that the two essentially had a "husband and wife" relationship. Johnson testified that on the night of the incident, she and Taylor engaged in an argument and that it started to get "physical" to the point that she called police. Johnson described the physical contact as Taylor grabbing her around the neck and squeezing her throat. Johnson further testified that Taylor threatened to kill her if she called police, that he grabbed her arm, and that Taylor slammed the freezer door on her arm when she went to remove food. Taylor also threw Johnson on the couch and against the wall. Johnson testified that as a result of the physical harm caused by Taylor, she had bruises on her arm and neck.

{¶ 19} After viewing this evidence in a light most favorable to the prosecution, the

municipal court could have found the essential elements of domestic violence proven beyond a reasonable doubt. As such, Taylor's conviction is supported by sufficient evidence, and his second assignment of error is overruled.

{¶ 20} Judgment affirmed.

HENDRICKSON and M. POWELL, JJ., concur.