



LEXSEE 1993 OHIO APP LEXIS 5152

**STATE OF OHIO, Plaintiff-Appellee v. TIMOTHY J. DICKSON,
Defendant-Appellant**

Case No. CA-478

**COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, HOLMES
COUNTY**

1993 Ohio App. LEXIS 5152

October 13, 1993, Entered

PRIOR HISTORY: [*1] CHARACTER OF
PROCEEDING: Criminal Appeal from the Court of
Common Pleas. Case No. 92-CR-45

DISPOSITION: JUDGMENT: Affirmed

COUNSEL: For Plaintiff-Appellee: ROBERT D.
RINFRET, Prosecuting Attorney, Holmes County, Ohio,
91 South Monroe Street, Millersburg, Ohio 44654.

For Defendant-Appellant: BLAIR A. BOWER, 111 S.
Washington St., Suite B, Millersburg, Ohio 44654.

JUDGES: Hon. Irene B. Smart, P.J., Hon. W. Scott
Gwin, J., Hon. William B. Hoffman, J.

OPINION BY: W. SCOTT GWIN

OPINION

OPINION

GWIN, J.

Defendant, Timothy J. Dickson (appellant), appeals
from the judgment of conviction and sentence entered
upon a jury's verdict finding him guilty of two counts of
domestic violence, fourth degree felonies under R.C. §
2919.25. Appellant assigns as error:

ASSIGNMENT OF ERROR NO. I

THE CONVICTION OF THE
DEFENDANT-APPELLANT SHOULD
BE REVERSED BECAUSE THE
EVIDENCE WAS INSUFFICIENT AS A
MATTER OF LAW.

ASSIGNMENT OF ERROR NO. II

THE CONVICTION OF THE
DEFENDANT-APPELLANT SHOULD
BE REVERSED BECAUSE THE
CONVICTION IS AGAINST THE
MANIFEST WEIGHT OF THE
EVIDENCE.

I & II

Through his first and second assignments, appellant
questions the sufficiency and weight of the evidence
regarding [*2] the jury's verdict. When reviewing a
claim that a jury's verdict is against the manifest weight
of the evidence, or that the evidence was insufficient as a
matter of law, our duty is to review the record and
determine whether there is sufficient evidence contained
therein for a jury to reasonably conclude that the
defendant was guilty of the crimes charged beyond a
reasonable doubt. *State v. Brown* (1988), 38 Ohio St.3d
305, 528 N.E.2d 523, *cert. denied* (1989), 489 U.S. 1040,

103 L. Ed. 2d 239, 109 S. Ct. 1177. Therefore, our examination is limited to a determination of whether, after reviewing 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* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus; *State v. Eley* (1978), 56 Ohio St.2d 169, 383 N.E.2d 132, syllabus.

In the present case, appellant was charged by way of indictment with two counts of knowingly causing or attempting to cause physical harm to a family or household member, to-wit: Teonna M. Dickson, a three-year-old child, in violation of R.C. 2919.25(A)

[*3] Upon review of the record, we find sufficient, if not overwhelming, evidence that appellant resided in the same home as the child victim, Teonna M. Dickson, at the time the instant criminal incidents occurred. In fact, the State presented evidence that appellant was the natural father of Teonna.

Testimonial evidence was presented that on July 18, 1992, appellant, while wearing his work boots, literally kicked Teonna in her lower back causing the child to fly three to five feet through the air. Testimonial evidence also indicated that on July 20, 1992, appellant struck Teonna with an open hand with such force as to leave a "welted hand print" on the child which later resulted in a

bruise. Upon review of this evidence, we believe any rational trier of fact could have found the essential elements of domestic violence proven beyond a reasonable doubt.

Accordingly, we overrule appellant's first and second assignments of error and affirm the judgment of conviction and sentence entered in the Holmes County Court of Common Pleas.

By Gwin, J.

Smart, P.J. and

Hoffman, J. concur.

JUDGMENT ENTRY

For the reasons stated in the Memorandum-Opinion on file, the judgment of conviction [*4] and sentence entered in the Holmes County Court of Common Pleas, Ohio, is hereby affirmed and we remand this cause to that court for execution of sentence.

W. Scott Gwin

Irene Balogh Smart

William B. Hoffman

JUDGES