

[Cite as *State v. Greene*, 2011-Ohio-1283.]

**IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
MONTGOMERY COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 23901
Plaintiff-Appellee	:	
	:	Trial Court Case No. 99-CRB-2539
v.	:	
	:	
SOPHIA MICHELLE GREENE	:	(Criminal Appeal from
	:	Dayton Municipal Court)
Defendant-Appellant	:	

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OPINION

Rendered on the 18<sup>th</sup> day of March, 2011.

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FAIN, J.

{¶ 1} Defendant-appellant Sophia Greene appeals from her conviction for Assault, in violation of R.C. 2903.13. Greene contends that her conviction is against the manifest weight of the evidence.

{¶ 2} We conclude that the conviction is not against the manifest weight of the evidence. Accordingly, the judgment of the trial court is Affirmed.

I

{¶ 3} On a warm evening in March, 2009, Greene was arrested for assault and taken into custody by two Dayton City Police officers, along with several others who were suspected of participating in the assault on the victim, Gerren Oliver. The events leading up to Greene's arrest began earlier that evening when Oliver started to receive harassing phone calls from her ex-fiancé (Ulysses Greene) and his sister, Greene, who lived a few residences away. The calls upset Oliver enough that she and her current boyfriend, Vincent Williams, decided to postpone their dinner plans and go home to confront the problem.

{¶ 4} Once home, Oliver started yelling at both Greene and her brother Ulysses, who were sitting outside Greene's home. Oliver had to be physically removed by Williams. The police were called at this time and "trespassed" both women from each other's home (i.e., informed each woman that she was not permitted on the premises of the other). Greene claimed in her testimony that Oliver came back and started to throw beer bottles at Greene and her friends. Oliver countered this in her testimony, stating she never drinks beer, so she doesn't keep any in the house. A neighbor to both women, Shakena Clay, testified for the defense that she witnessed Oliver throw beer bottles at Greene, but retreated into her home before she witnessed anything else outside. The police were never called by anyone to report this incident.

{¶ 5} A little while later, having just put all of her children to bed, Oliver and

Williams were watching a movie, when Patrick Greene, another of Greene's brothers, stopped by to talk. He brought with him the dog that Oliver and Ulysses had shared when they were living together, now considered to belong to Ulysses. During this visit, Greene, Ulysses, and a few others came over to Oliver's home and pushed their way inside. Once inside, a commotion started, with Ulysses demanding his dog and others screaming at Oliver. Oliver testified that she was nearly hit with a beer bottle and a cup of beer that Greene threw. At some point, the altercation turned physical, and Oliver ended up face down on the ground, where she was kicked in the eye. Williams witnessed a portion of the assault when he came downstairs to see what was happening, but was promptly punched, receiving only superficial injuries, and left the house to call the police. Clay testified to hearing a loud physical confrontation through the wall that she shared with Oliver, but never reported it to the police after Greene was arrested.

{¶ 6} Oliver was able to name Greene as one of the people who had assaulted her. Greene was arrested shortly after the police arrived. Oliver was transported to the hospital, having sustained injuries to her face and eye, which required surgery.

{¶ 7} Greene was found guilty of the assault at a bench trial, was sentenced to 90 days incarceration and a fine of \$500, with 90 days and \$400 suspended, and was placed on supervised probation for six months.

{¶ 8} From her conviction and sentence, Greene appeals.

## II

{¶ 9} Greene's sole assignment of error is as follows:

{¶ 10} "THE TRIAL COURT ERRED IN FINDING APPELLANT GUILTY OF

ASSAULT AS THE VERDICT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

{¶ 11} Greene was charged with Assault, in violation of R.C. 2903.13, which states: “(A) No person shall knowingly cause or attempt to cause physical harm to another,” or “(B) No person shall recklessly cause serious physical harm to another.”

{¶ 12} Greene was accused of acting in concert with several other individuals in the assault on Oliver. Complicity in the commission of a crime is governed by R.C. 2923.03(A)(2)(F), which states that any person who aids and abets another in the commission of a crime shall be prosecuted as if the person acting with another was the principal offender. The Supreme Court of Ohio has held that “to support a conviction for complicity by aiding and abetting pursuant to R.C. 2923.03(A)(2), the evidence must show that the defendant supported, assisted, encouraged, cooperated with, advised, or incited the principal in the commission of the crime, and that the defendant shared the criminal intent of the principal. Such intent may be inferred from the circumstances surrounding the crime.” *State v. Johnson*, 93 Ohio St.3d 240, 245-246, 2001-Ohio-1336.

{¶ 13} Greene was identified by Oliver as a member of the group that pushed their way into Oliver’s home and assaulted her. Oliver testified that she was injured as a result of the group attack. It is clear that the intention animating the actions of the group was to cause injury to Oliver.

{¶ 14} Oliver and Williams both testified that a group of people came into Oliver’s home and assaulted her. Williams was hit during the attack, and left to call the police. Oliver was able to identify almost all of the people in the group that assaulted her, including

Greene. The injury to Oliver's eye was observed by both of the responding police officers. The neighbor of both women stated that she heard an assault through the shared wall, but never investigated further.

{¶ 15} Greene testified that she never went to Oliver's home, and was sitting calmly in front of her own home all night. The neighbor testified that she believed that Oliver had been assaulted by Williams, but she did not have personal knowledge of the supposed assault by Williams, having only heard a fight through the wall.

{¶ 16} The Supreme Court of Ohio has held that, “[w]hen a court of appeals reverses a judgment of a trial court on the basis that the verdict is against the weight of the evidence, the appellate court sits as a ‘thirteenth juror’ and disagrees with the fact finder’s resolution of the conflicting testimony. *Tibbs [v. Florida (1982)]*, 457 U.S. [35] at 42, 102 S.Ct. [2211] at 2218, 72 L.Ed.2d [652] at 661. See, also, *State v. Martin (1983)*, 20 Ohio App.3d 172, 175, 20 OBR 215, 219, 485 N.E.2d 717, 720-721 (‘The court, reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. The discretionary power to grant a new trial should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction.’).” *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52. This is not the exceptional case in which the evidence weighs heavily against the conviction, and the factfinder lost its way, resulting in a manifest miscarriage of justice. The testimony of both Oliver and Williams is consistent with what was reported to the police. The police officers both testified that they observed the

injuries to Oliver and that she was able to point out her attacker. The testimony by the neighbor showed that there had been an ongoing argument between Greene and Oliver throughout the day, and that there was an attack that happened next door. With the evidence presented, a reasonable jury could find that Greene knowingly aided and abetted a group that intentionally caused harm to Oliver.

{¶ 17} Greene's sole assignment of error is overruled.

III

{¶ 18} Greene's sole assignment of error having been overruled, the judgment of the trial court is Affirmed.

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GRADY, P.J., and FROELICH, J., concur.

Copies mailed to:

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Hon. John S. Pickrel