

OHIO COURT OF APPEALS, SIXTH APPELLATE DISTRICT

State v. McCreary

2025-Ohio-5822 · No. L-25-00030 · Decided December 30, 2025

SUMMARY

The Sixth District Court of Appeals of Ohio affirmed Daniel G. McCreary’s conviction for aggravated burglary. The court held that the evidence was sufficient to establish trespass and purpose to commit assault, and that the conviction was not against the manifest weight of the evidence despite inconsistencies in the victim’s testimony.

CASE DETAILS

COURT	Ohio Court of Appeals, Sixth Appellate District
WRITING FOR THE COURT	Thomas J. Osowik; Christine E. Mayle; Myron C. Duhart
JURISDICTION	Ohio Court of Appeals, Sixth Appellate District, Lucas County
DECIDED	December 30, 2025
DOCKET	L-25-00030
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from conviction for aggravated burglary after jury trial.
STANDARD OF REVIEW	Sufficiency of evidence: whether, viewing evidence in a light most favorable to prosecution, any rational trier of fact could have found essential elements proven beyond a reasonable doubt (legal question). Manifest weight: whether the jury clearly lost its way and created a manifest miscarriage of justice (weighing evidence, considering credibility).
PRECEDENTIAL VALUE	published
PARTIES	Daniel G. McCreary v. State of Ohio

TOPICS

- criminal procedure
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred in denying the motion for acquittal under Crim.R. 29(A) for insufficient evidence.
2. Whether the conviction was against the manifest weight of the evidence.

HOLDINGS

1. The State presented sufficient evidence of trespass and purpose to commit assault. Testimony that defendant was not living with the victim, did not have a key, was told to leave, and forced his way into the home was sufficient to establish trespass. Testimony that defendant beat the victim with a closed fist and forced his way inside while she tried to prevent entry was sufficient to establish purpose to commit assault.
2. The conviction was not against the manifest weight of the evidence. Inconsistencies in the victim's testimony (e.g., regarding consciousness, relationship status, mode of travel to police station) did not negate any element of the offense, and the jury's credibility determinations are entitled to special deference.

KEY QUOTATIONS

“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.” (¶ 17)

“For purposes of defining the offense of aggravated burglary pursuant to R.C. 2911.11, a defendant may form the purpose to commit a criminal offense at any point during the course of a trespass.” (¶ 22)

“When reviewing a claim that a verdict is against the manifest weight of the evidence, the appellate court must weigh the evidence and all reasonable inferences, consider the credibility of witnesses, and determine whether the jury clearly lost its way in resolving evidentiary conflicts so as to create such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.” (¶ 25)

“The jurors are free to believe some, all, or none of each witness' testimony and they may separate the credible parts of the testimony from the incredible parts.” (¶ 26)

FACTUAL BACKGROUND

Defendant Daniel McCreary was charged with aggravated burglary after he allegedly forced his way into the home of his ex-girlfriend, H.W., and beat her, causing head lacerations and bruising. H.W. testified she told him to leave and tried to prevent his entry, but he forced his way in. She sustained injuries requiring medical treatment. McCreary was not living with H.W. and did not have a key. The jury convicted him of aggravated burglary.

PROCEDURAL HISTORY

Defendant was convicted of aggravated burglary in Lucas County Court of Common Pleas. He appealed, raising assignments of error regarding the denial of his motion for acquittal (Crim.R. 29(A)) and that the conviction was

against the manifest weight of the evidence.

DISPOSITION

affirmed

CASES CITED

- State v. Brinkley, 2005-Ohio-1507
- State v. Tenace, 2006-Ohio-2417
- State v. Thompsons, 78 Ohio St.3d 380 (1997)
- State v. Smith, 80 Ohio St.3d 89 (1997)
- State v. Walker, 55 Ohio St.2d 208 (1978)
- State v. Richardson, 2016-Ohio-8448
- State v. Fontes, 87 Ohio St.3d 527 (2000)
- State v. Robinson, 2012-Ohio-6068
- State v. Martin, 20 Ohio App.3d 172 (1st Dist. 1983)
- State v. Fell, 2012-Ohio-616
- State v. Hill, 2024-Ohio-2744
- State v. Barnhart, 2010-Ohio-3282
- State v. Mastel, 26 Ohio St.2d 170 (1971)
- State v. Gore, 131 Ohio App.3d 197 (7th Dist. 1999)
- State v. Wren, 2008-Ohio-6512
- State v. Thompson, 127 Ohio App.3d 511 (8th Dist. 1998)
- State v. Kelly, 2007-Ohio-4406
- In re Z.C., 2023-Ohio-4703
- Eastley v. Volkman, 2012-Ohio-2179
- Seasons Coal Co., Inc. v. Cleveland, 10 Ohio St.3d 77 (1984)