

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

State v. Tyus

2020-Ohio-4454 (Ohio Ct. App. 2020) · No. C.A. No. 29505 · Decided September 16, 2020

SUMMARY

The Ninth District Court of Appeals of Ohio reviewed Donyea Tyus’s convictions arising from multiple shootings in Akron. Tyus argued that the verdicts were against the manifest weight of the evidence and that the trial court improperly admitted gruesome autopsy photographs. The court affirmed the judgment of the Summit County Court of Common Pleas.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Donna J. Carr; Callahan, P.J.; Teodosio, J.
JURISDICTION	Ohio
DECIDED	September 16, 2020
DOCKET	C.A. No. 29505
DISPOSITION	affirmed
PROCEDURAL POSTURE	Donyea Tyus appealed his convictions following a jury trial in the Summit County Court of Common Pleas, challenging the manifest weight of the evidence, admission of gruesome autopsy photographs, admission of photographs depicting him holding a firearm, and the jury instruction on having weapons while under disability.
STANDARD OF REVIEW	A manifest-weight challenge requires review of the entire record, weighing the evidence and reasonable inferences and considering witness credibility to determine whether the factfinder clearly lost its way and created a manifest miscarriage of justice. Evidentiary rulings are reviewed for abuse of discretion and material prejudice. Jury instructions are reviewed for abuse of discretion, while the instructions must correctly and appropriately state the law applicable to the facts.
PRECEDENTIAL VALUE	published state intermediate appellate opinion
PARTIES	Donyea Tyus v. State of Ohio

TOPICS

criminal procedure

appellate procedure

evidence

standard of review

harmless error

PRACTICE AREAS

criminal law

criminal procedure

appellate litigation

evidence

homicide

QUESTIONS PRESENTED

1. Whether Tyus's convictions were against the manifest weight of the evidence because the jury allegedly relied on accomplice Cheyenne James's testimony.
2. Whether the trial court abused its discretion under Evid.R. 403 by admitting gruesome autopsy photographs of victim R.M.
3. Whether the trial court erred under Evid.R. 401, 402, and 403 by admitting photographs depicting Tyus holding a firearm.
4. Whether the trial court abused its discretion by instructing the jury that Tyus's stipulated prior conviction was a felony offense of violence, an element of having weapons while under disability under R.C. 2923.13(A)(2).

HOLDINGS

1. The convictions were not against the manifest weight of the evidence because the jury was entitled to credit the accomplice's testimony, which was corroborated by significant portions of the record, and the jury did not clearly lose its way.
2. The trial court did not abuse its discretion by admitting the challenged autopsy photographs because their probative value in explaining the fatal injury and illustrating the medical examiner's testimony was not substantially outweighed by unfair prejudice.
3. Even assuming the trial court erred under Evid.R. 403 by admitting the photographs and related firearm testimony, any error did not materially prejudice Tyus in light of the totality of the evidence.
4. The trial court did not abuse its discretion by instructing the jury that Tyus stipulated to a prior felony offense of violence, because the nature of that prior conviction was an essential element of the charged offense under R.C. 2923.13(A)(2).

KEY QUOTATIONS

“In determining whether a criminal conviction is against the manifest weight of the evidence, an appellate court must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of 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)

“When 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.” (¶ 7)

“Thus, the fact that the prior conviction was an offense of violence was an essential element of the offense.”
(¶ 55)

FACTUAL BACKGROUND

Multiple shootings and an attempted shooting occurred in Akron during the early morning hours of July 7, 2018. One victim, B.R., was shot multiple times and died; a second victim, R.M., was shot in the head and died; and C.H. escaped after two men and a woman attempted to shoot her, but the firearms malfunctioned. Accomplice Cheyenne James testified that Tyus and his half-brother Orlando participated in the shootings and attempted shooting, and portions of her testimony were corroborated by other witnesses, surveillance video, telephone records, forensic evidence, and evidence that Tyus and R.M. had previously been incarcerated together.

PROCEDURAL HISTORY

Tyus was indicted on two counts each of aggravated murder, murder, and felonious assault, and one count of having weapons while under disability, with firearm specifications accompanying the aggravated-murder and murder counts. After a jury trial, he was found guilty and sentenced by the trial court. The Ninth District Court of Appeals overruled all four assignments of error and affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Otten, 33 Ohio App.3d 339, 340 (9th Dist. 1986)
- State v. Thompkins, 78 Ohio St.3d 308, 387 (1997)
- Tibbs v. Florida, 457 U.S. 31, 42 (1982)
- State v. Moore, 9th Dist. Summit No. 29418, 2020-Ohio-3708, ¶ 30
- State v. Boatright, 9th Dist. Summit No. 28101, 2017-Ohio-5794, ¶ 34
- State v. Bardos, 9th Dist. Medina No. 15CA0082-M, 2016-Ohio-8091, ¶ 16
- State v. Baskerville, 9th Dist. Summit No. 28148, 2017-Ohio-4050, ¶¶ 33-34
- State v. Buck, 9th Dist. Summit No. 27597, 2017-Ohio-273, ¶ 22
- State v. Jackson, 9th Dist. Summit No. 27739, 2017-Ohio-278, ¶¶ 23, 28, 30
- State v. Noling, 98 Ohio St.3d 44, 2002-Ohio-7044, ¶ 43
- Proctor v. Dennis, 5th Dist. Fairfield No. 05-CA-82, 2006-Ohio-4442, ¶ 29
- State v. Comen, 50 Ohio St.3d 206 (1990), paragraph two of the syllabus
- State v. White, 142 Ohio St.3d 277, 2015-Ohio-492, ¶ 46
- State v. Creech, 150 Ohio St.3d 540, 2016-Ohio-8440, ¶¶ 33, 35