[Cite as *State v. Carson*, 2018-Ohio-5305.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	
	:	Hon. William B. Hoffman, P.J.
Plaintiff-Appellee	:	Hon. Patricia A. Delaney, J.
	:	Hon. Craig R. Baldwin, J.
-vs-	:	
	:	Case No. 18-CA-25
	:	
CHRISTOPHER L. CARSON	:	
	:	
	:	
Defendant-Appellant	:	O P I N I O N

CHARACTER OF PROCEEDING:	Appeal from the Licking County Court of Common Pleas, Case No. 17 CR 234
JUDGMENT:	AFFIRMED
DATE OF JUDGMENT ENTRY:	December 21, 2018

APPEARANCES:

For Plaintiff-Appellee:	For Defendant-Appellant:
WILLIAM C. HAYES LICKING CO. PROSECUTOR PAULA M. SAWYERS 20 S. Second St., Fourth Floor Newark, OH 43055	KEVIN J. GALL Burkett & Sanderson, Inc. 73 North Sixth St. Newark, OH 43055

Delaney, J.

{¶1} Appellant Christopher L. Carson appeals from the February 8, 2018 Judgment Entry of the Licking County Court of Common Pleas. Appellee is the state of Ohio.

FACTS AND PROCEDURAL HISTORY

{¶2} This case arose when Jane Doe was tending bar in the evening hours of October 3, 2016 at an establishment in Licking County. Appellant and a friend came in and sat at the bar. The three didn't know each other but they chatted and Doe learned appellant and his friend were going to a second bar later that evening.

Appellee's case

{¶3} Doe finished her shift and closed the bar around 11:00 p.m. She then drove in her car, a Toyota Prius, to the second bar the men had mentioned. She encountered appellant and his friend again and stayed until last call at 2:00 a.m. Doe offered to give appellant a ride home because he lived near her and his friend left earlier. Appellant assented and Doe drove appellant home.

{¶4} Doe parked her car outside the McMillen Woods apartments in the vicinity of 135 Westmoor, Newark. The pair sat in the car, talking. Doe testified the conversation was not romantic or sexual; Doe knew appellant was married and felt "safe" with him in part because they had talked about appellant's young child. As they sat in car, they drank from a bottle of Bacardi rum and talked about a mutual acquaintance. Appellant became "emotional." Doe testified he had touched her hair earlier in the bar and she had asked him not to touch her, but in the car when he touched her hair again she didn't protest because he was "upset."

{¶5} Doe testified that ensuing events were a "blur" but eventually appellant leaned in toward her and she pushed him away. He punched her in the head repeatedly and held her by the neck to the extent that she couldn't breathe. Doe said appellant was yelling at her during the assault, stating: "Do I own you? Are you mine? Do I fucking own you?" to which she said "yes, you own me" and appellant said "I'm your master, I'm going to tell you what to do."

{¶6} Doe testified appellant told her to perform oral sex on him and forcefully pushed her head down. She said he was hitting her because she wasn't moving fast enough in taking her clothes off. At some point, appellant penetrated Doe vaginally with his fingers, cutting or scratching her genitals. He also digitally penetrated her anus. Doe was screaming and appellant continued to hit her, telling her to shut up. Doe testified that she urinated on herself in the driver's seat and appellant let go of her, stating "what the hell." Doe jumped out of the car and ran off, naked. She left her purse, keys, cell phone, and clothes behind in the car.

{¶7} Doe ran north on Westmoor to the residence of a friend. She used the garage door code to enter the friend's house and ran into his bedroom, waking him up, sobbing. The friend gave Doe clothes to put on and took her to her parents' home a short distance away. Doe and her friend awoke her parents and the friend called 911.

{¶8} Doe went to Licking Memorial Hospital where she was examined in the emergency room by a doctor and a sexual-assault nurse examiner. The SANE nurse collected a rape kit and testified that Doe told her she was punched repeatedly and digitally penetrated in the vagina and the anus. The nurse didn't ask questions and only wrote down the history Doe provided. The nurse and doctor testified to three areas of

injury to Doe's head, abrasions and contusions on her labia, and evident trauma. The doctor testified Doe had evidence of, e.g., traumatic injury to her vagina consistent with digital penetration. Although Doe did not present evidence of broken blood vessels in her eye at the time of the initial exam, several days later petechiae developed as a red spot in her eye. The nurse testified the petechiae is consistent with strangulation. The nurse summarized that Doe's injuries were consistent with forcible assault, penetration, and strangulation.

{¶9} In the meantime, after Doe fled from the car, appellant also ran away from the car, naked. A female resident of the McMillen Woods apartments woke up at 4:00 a.m. to let her cats out and waited for them to return. She turned her patio light on and was startled to see a man on her patio, "wiggling his finger at her," gesturing for her to open the door. The woman was terrified and could see that the man was naked. She yelled to him to "get the hell out of here" and called the police. When police arrived, she provided a physical description and officers searched the area.

{¶10} Ptl. Michael Trotter was dispatched to the McMillen Woods apartments regarding the call of the naked man on the patio. He looked around and did not find the person described.

{¶11} Shortly thereafter, he was dispatched to the residence of Doe's parents, a short distance away on Westmoor, and was instructed to search McMillen Woods for Doe's Prius in which a sexual assault or rape had occurred. The suspect was believed to be in the area and his name was "Chris."

{¶12} Trotter returned to the area of the woman's apartment who had called about the naked man. Trotter got out of his cruiser and was approached by a man who asked

whether Trotter was looking for a naked man. The man pointed to the west side of the apartment building and Trotter started walking in that direction. Appellant emerged from the shadows, naked, holding his hands over his genitals. Trotter ordered him to stop and asked his name. Trotter ordered appellant to the ground and he complied.

{¶13} Trotter asked appellant where his clothes were and appellant said someone attacked him and took his clothing. Trotter had been instructed to bring appellant to the police department and not to question him, so he placed appellant in his cruiser. As they drove, appellant told Trotter he was a military veteran and was currently in the "Sierra Group," with which Trotter was unfamiliar. Appellant said he trained police officers and Trotter was "doing everything wrong," which appellant illustrated by slipping the handcuffs on his wrists. While waiting for a detective to arrive at the police department, appellant became agitated and told Trotter he "would have to put a bullet in [appellant's] head" and that the two were going to fight because appellant was not going to jail.

{¶14} A detective instructed Trotter to transport appellant to the county jail. Trotter testified that appellant began breathing very deeply and strangely, "like Lamaze," and told Trotter he was "oxygenating his muscles to prepare himself for maximum combat." Trotter called ahead to the county jail to advise appellant might be combative upon arrival.

{¶15} Police collected Doe's car and processed it for evidence. Police found and photographed bloodstains on the passenger door and a large bloodstain on the driver's seat. Men's clothing was found under the passenger-side dashboard. The shorts had bloodstains on them and contained appellant's wallet, I.D., and keys. A pair of bloodstained men's underwear was also found, along with a bloodstained grey t-shirt.

Appellant's cell phone was found in the car. Women's clothing was also found in the car, along with Doe's purse and keys. Police also found an empty bottle of Bacardi rum.

{¶16} D.N.A. swabs were collected from appellant. Appellant's D.N.A. was found on the vaginal swabs from Doe's rape kit. The Bacardi rum bottle was submitted to the Ohio State Highway Patrol crime lab because at one point appellant said he had been drugged. No controlled substances were found in the Bacardi bottle.

{¶17} Detective Wells was the lead investigator and interviewed appellant. Appellant told Wells he didn't remember much but a woman gave him a ride home from a bar after he drank a lot. He didn't know where they went from the bar but remembered a parking lot. He said they both took off their clothes and engaged in consensual sexual activity but he must have done or said something wrong because the woman forced him out of the car and drove off, leaving him naked.

{¶18} Appellee presented evidence of recorded jail phone calls during Wells' testimony. Appellant spoke to his wife and told her a woman gave him a ride, they pulled into a parking lot, he took a drink of something, and remembered nothing after that. In another jail call, appellant said he was taken advantage of and must have been drugged because his arms were "heavy" but eventually he was able to punch the woman in the face and run away. Wells testified that appellant's various statements about the incident were inconsistent and there was no evidence he was drugged.

Appellant's case

{¶19} Appellant was the sole witness on his own behalf at trial. Appellant acknowledged he is a convicted felon.[1] He was drinking with his friend at the second bar when Doe showed up. Although his friend left, appellant and Doe remained at the bar until last call and she offered him a ride home because she lived nearby.

{¶20} Appellant directed Doe to where he lived but when he started to get out of the car, she pulled out the bottle of Bacardi and asked if he wanted to help her finish it. Appellant agreed and testified that the pair moved the car to sit and drink because he didn't want his wife to see him outside the apartment. He was married at the time and is now divorced, but he "suspected" something sexual would occur with Doe thus they moved the car "across the street and down the road."

{¶21} Appellant claimed things "got sexual pretty quickly;" they made out and he "started to finger her" but it was difficult because she was in the driver's seat. She took her pants off and climbed on top of him. Appellant said Doe was slapping and hitting him "playfully" and "not aggressively." He said she returned to the driver's seat so they could both undress fully and then she climbed into his lap. He testified that he had too much to drink and was unable to maintain an erection, and at one point Doe laughed at him, embarrassing him. When asked if he shoved Doe's head toward his penis, he replied, "Not forcefully." He admitted he digitally penetrated her vagina and anus; the latter may have been accidental or intentional, he couldn't recall. Appellant acknowledged he cut

[1] Appellant was convicted of improper handling of weapons in a motor vehicle but was completing an unsuccessful term of intervention in lieu of conviction when he committed the instant offenses.

Doe's vaginal area with his finger and said that when his finger "slipped" into her anus, she hit him in his right eye, causing it to bleed.

{¶22} Appellant said he hit Doe as an "automatic reaction" to her hitting him. She got back into the driver's seat and he apologized, but she said he hurt her and became hysterical. Appellant testified he wanted to "de-escalate" the situation so he got out of the car, despite the fact that he was naked. He went to the nearest house and knocked on the door; a woman said police were on their way so he waited for them. He said he approached police upon their arrival and followed their commands.

{¶23} Appellant acknowledged lying to his wife and mother in the jail calls because he wanted to save his marriage. His direct examination concluded with his testimony that everything that occurred between him and Jane Doe was consensual.

{¶24} Upon cross-examination, appellant insisted he struck Doe only once. He acknowledged that he told inconsistent stories about the assault. He further acknowledged that upon arrival at the county jail, he resisted and head-butted deputies, requiring them to Tase him to get him into a cell.

{¶25} Appellant acknowledged he may have told Doe to call him "master" and claimed that she "playfully" hit and strangled him, too, but it was part of "foreplay." Appellant acknowledged he lied to police but said he wanted to save his marriage and didn't want his wife to know he had consensual sexual contact with another woman.

Indictment, trial, conviction, and acquittals

{¶26} Appellant was charged by indictment as follows: Count I, rape pursuant to R.C. 2907.02(A)(2), a felony of the first degree; Count II, rape pursuant to R.C. 2907.02(A)(2), a felony of the first degree; Count III, attempted rape pursuant to R.C.

2923.02(A) and R.C. 2907.02(A)(2), a felony of the second degree; Count IV, kidnapping pursuant to R.C. 2905.01(A)(2) and (4), a felony of the first degree; Count V, felonious assault pursuant to R.C. 2903.11(A)(1), a felony of the second degree; and Count VI, gross sexual imposition pursuant to R.C. 2907.05(A)(1), a felony of the fourth degree.

{¶27} Appellee's bill of particulars dated April 13, 2017 states the following in pertinent part regarding appellant's charged criminal conduct:

> * * * *.
>
> On October 4, 2016, [appellant] * * * met [Jane Doe] at her place of employment and then later ran into her at a local bar. At the end of the night, [Doe] offered to give [appellant] a ride home, as they lived in the same neighborhood. As [appellant and Doe] sat in her vehicle talking, [appellant] became aggressive and ordered her to remove her clothing. He then began to forcibly remove her clothing himself, and started punching her in the head multiple times, leaving visible marks. [Appellant] then grabbed [Doe], holding her against her will and refusing to let her leave the vehicle, groped her breasts with his hand, and forcibly digitally penetrated her vaginal area, scratching her and causing her to bleed. He also forcibly digitally penetrated her anus. He then pulled her head down towards his penis and ordered her to perform oral sex on him. [Appellant] continued hitting her and also began choking [Doe], to the point where she believes she lost partial consciousness. [Doe] was finally able to break free from [appellant] and flee the vehicle. She ran

naked to a friend's house where the police were called. This occurred on [ ], Newark.

[Doe] was taken to the hospital where a medical examination was performed. She had multiple injuries, including swelling and bruising on her head and what appeared to be fingerprint like bruises on both sides of her neck. A vaginal exam showed signs of injury to her vaginal area. A few days later, [Doe's] injuries included petechial in her eye, which is consistent with being choked.

Police located [appellant] after they received a separate 911 call, from a home owner who stated that a naked man was on her porch. [Appellant] had a strong smell of alcohol about him, claimed to have been attacked, and stated he didn't know where his clothes were. He later stated that he did not remember anything about what had happened after meeting the woman at a bar. However, in jail calls, [appellant] changes his story, to another version of what happened.

Based upon this, [appellant] is charged in Counts 1-2 of the Indictment with Rape * * *.

* * * *.

{¶28} The bill goes on to detail each of the offenses appellant was charged with and the associated penalties. The bill does not assign specific conduct to the charged offenses.

{¶29} Both parties filed motions in limine to exclude certain evidence from trial. The matter proceeded to trial by jury. Appellant moved for a judgment of acquittal pursuant to Crim.R. 29(A) at the close of appellee's evidence and the motion was overruled. Appellant was found guilty of the lesser offense of assault upon Count V (originally felonious assault) and guilty of gross sexual imposition as charged in Count VI. He was acquitted of the remaining counts.

{¶30} The trial court sentenced appellant to a prison term of one year upon Count VI, concurrent with a jail term of 90 days upon Count V. He was ordered to serve a mandatory 5-year period of post-release control and was determined to be a Tier I sex offender.

{¶31} Appellant now appeals from the February 27, 2018 Judgment Entry of conviction and sentence.

{¶32} Appellant raises two assignments of error:

ASSIGNMENTS OF ERROR

{¶33} "I. THE DEFENDANT-APPELLANT'S CONVICTION FOR GROSS SEXUAL IMPOSITION IS NOT SUPPORTED BY SUFFICIENT EVIDENCE."

{¶34} "II. THE DEFENDANT-APPELLANT'S CONVICTION FOR GROSS SEXUAL IMPOSITION IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

ANALYSIS

I., II.

{¶35} Appellant's two assignments of error are related and will be considered together. He argues his conviction upon one count of gross sexual imposition is not

supported by sufficient evidence and is against the manifest weight of the evidence.[2] We disagree.

{¶36} The legal concepts of sufficiency of the evidence and weight of the evidence are both quantitatively and qualitatively different. *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541, paragraph two of the syllabus. The standard of review for a challenge to the sufficiency of the evidence is set forth in *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991) at paragraph two of the syllabus, in which the Ohio Supreme Court held, "An appellate court's function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt. 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."

{¶37} In determining whether a conviction is against the manifest weight of the evidence, the court of appeals functions as the "thirteenth juror," and after "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 overturned and a new trial ordered." *State v. Thompkins*, supra, 78 Ohio St.3d at 387. Reversing a conviction as being against the manifest weight of the evidence and ordering

[2] Appellant does not challenge his conviction upon the lesser-included offense of assault (Count V).

a new trial should be reserved for only the "exceptional case in which the evidence weighs heavily against the conviction." *Id.*

{¶38} Sufficiency of the evidence is a legal question dealing with whether the state met its burden of production at trial. *State v. Murphy*, 5th Dist. Stark No. 2015CA00024, 2015–Ohio–5108, ¶ 13, citing *State v. Thompkins*, 78 Ohio St.3d 380, 386, 678 N.E.2d 541 (1997). "Specifically, an appellate court's function, when reviewing the sufficiency of the evidence to support a criminal conviction, is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt." *Murphy* at ¶ 15. The test for sufficiency of the evidence raises a question of law and does not permit the court to weigh the evidence. *State v. Martin,* 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

{¶39} 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. *Murphy* at ¶ 15, citing *Thompkins* at 386.

{¶40} In the instant case, appellant was convicted of gross sexual imposition (G.S.I.) pursuant to R.C. 2907.05(A)(1), which states, "No person shall have sexual contact with another * * * when * * * [t]he offender purposely compels the other person * * * to submit by force or threat of force." R.C. 2907.01(B) defines "sexual contact" as "any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person."

{¶41} Appellant argues appellee presented insufficient evidence of sexual contact, specifically, that he groped Doe's breasts. Appellant's argument is premised upon his assertion that appellee "set forth in its Bill of Particulars as well as its opening statement that it anticipated the evidence would show that [appellant] groped [Doe's] breasts with his hands * * *," and this allegation was not supported by evidence at trial. He further argues the G.S.I. conviction is against the manifest weight of the evidence because the jury acquitted him of rape and there was "no separate factual basis" supporting the G.S.I. Appellant therefore argues inconsistent theories: the G.S.I. charge is based solely upon an allegation of groping of the breasts and must fail because the evidence didn't establish he groped the victim's breasts, and/or the G.S.I. charge fails because it is based upon the same allegations of forced sexual contact the jury acquitted him of on the remaining counts.

{¶42} First, we reject appellant's premise that the G.S.I. count is dependent upon evidence of groping of the victim's breasts. As noted supra, the bill of particulars does not assign alleged conduct to specific counts of the indictment. Moreover, Doe testified to significant sexual contact compelled by force. She testified appellant touched her pubic region as he struck her repeatedly. We have held that the testimony of one witness, if believed by the factfinder, is enough to support a conviction. See, *State v. Dunn,* 5th Dist. Stark No. 2008–CA–00137, 2009–Ohio–1688, ¶ 133.

{¶43} In this case, though, appellant fully acknowledges the sexual contact, although he asserts it was consensual. Appellant even acknowledged the force involved, although he claimed he stuck Doe only once. Doe's testimony is further corroborated by the testimony of the medical personnel and the physical evidence of Doe's injuries.

{¶44} Second, we reject appellant's contention that the G.S.I. conviction is against the manifest weight of the evidence because it is somehow inconsistent with the acquittals on the rape and attempted-rape counts. As appellant acknowledges, G.S.I. pursuant to R.C. 2907.05 is both a lesser-included offense and an allied offense of similar import of rape pursuant to R.C. 2907.02. *State v. Hooper,* 7th Dist. Columbiana No. 03 CO 30, 2005-Ohio-7084, at ¶ 16, citing *State v. Johnson*, 36 Ohio St.3d 224, 522 N.E.2d 1082 (1988) and *State v. Abi–Sarkis*, 41 Ohio App.3d 333, 336, 535 N.E.2d 745 (8th Dist.1988). The apparent inconsistency in convicting appellant of G.S.I. and acquitting him of rape, arguably for the same conduct, does not create a fatally "inconsistent verdict."

{¶45} We have previously cited the Ohio Supreme Court's decision in *State v. Lovejoy*, 79 Ohio St.3d 440, 683 N.E.2d 1112 (1997) at paragraph one of the syllabus, holding that "several counts of an indictment containing more than one count are not interdependent and an inconsistency in a verdict does not arise out of inconsistent responses to different counts, but only arises out of inconsistent responses to the same count." *State v. Kelley*, 5th Dist. Delaware No. 2006CA00371, 2007-Ohio-6517, ¶ 24 [inconsistent responses to different counts do not create an inconsistency in the verdicts]. The jury may well have compromised in its decision. "An inconsistent verdict may very well be a result of leniency and compromise by the jurors, rather than being caused by jury confusion." *State v. Fraley,* 5th Dist. Perry No. 03CA12, 2004-Ohio-4898, ¶ 15, citing *United States v. Powell*, 469 U.S. 57, 105 S.Ct. 471, 83 L.Ed.2d 461 (1984). See also, *State v. Nesbitt*, 5th Dist. Stark No. 2017CA00234, 2018-Ohio-4222, ¶ 31.

{¶46} The "contradictory" jury verdicts in the instant case do not affect the validity of appellant's G.S.I. conviction. In *City of Brecksville v. Malone*, 8th Dist. Cuyahoga No.

75466, 2000 WL 193232, *1 (Feb. 17, 2000), appeal not allowed, 89 Ohio St.3d 1451, 731 N.E.2d 1139 (2000), the Eighth District Court of Appeals summarized Ohio's approach to inconsistent verdicts:

> It is well settled that the validity of a conviction does not depend on consistency between verdicts on various counts of a multiple count indictment when a jury finds the defendant guilty of one or more offenses and not guilty on others even though the difference in the verdicts cannot rationally be reconciled. *United States v. Powell*, [469 U.S. 57, 105 S.Ct. 471, 83 L.Ed.2d 461 (1984)]; *Dunn v. United States*, [284 U.S. 390, 52 S.Ct. 189, 76 L.Ed. 356 (1932)]; *Browning v. State*, [120 Ohio St. 62, 165 N.E. 566 (1929)] (inconsistency does not arise out of inconsistent responses to different counts, but only arises out of inconsistent responses to the same count). In declining to vacate seemingly inconsistent verdicts, the Ohio Supreme Court reasoned that the defendant received the benefit of the jury's mistake, compromise or lenity with regard to the acquittal, and it is not unreasonable for the defendant to accept the burden of the jury's conviction. *Id.*

{¶47} In the instant case, we therefore decline to vacate appellant's G.S.I. conviction simply because the jury acquitted him of rape and attempted rape. *Nesbitt*, supra, 2018-Ohio-4222 at ¶ 33, citing *State v. King*, 5th Dist. Guernsey No. 09 CA 000019, 2010-Ohio-2402, ¶ 34 [inconsistent verdicts do not render conviction against manifest weight of evidence]; *State v. Norman*, 10th Dist. Franklin No. 10AP-680, 2011-

Ohio-2870, ¶ 14 [defendant convicted of domestic violence but acquitted of assault, but inconsistency does not warrant reversal of conviction]; *State v. Burnett*, 5th Dist. Stark No. 2016CA00007, 2016-Ohio-7502, ¶ 18, motion for delayed appeal denied, 148 Ohio St.3d 1441, 2017-Ohio-1427, 72 N.E.3d 656, citing *State v. Gardner*, 118 Ohio St.3d 420, 2008–Ohio–2787 [verdict convicting defendant of one crime but acquitting him of another may not be disturbed merely because the two findings are irreconcilable]; see also, *State v. Wofford*, 5th Dist. Stark No. 2013CA00186, 2014-Ohio-3122, ¶ 50, appeal not allowed, 141 Ohio St.3d 1474, 2015-Ohio-554, 25 N.E.3d 1080.

{¶48} Finally, appellant asserts the jury found his testimony to be more credible than Doe's, but we do not draw the same conclusion from the fact that he was convicted of G.S.I. and assault, despite the fact he was acquitted of the other offenses. The weight to be given the evidence introduced at trial and the credibility of the witnesses are primarily for the trier of fact to determine. *State v. Thomas*, 70 Ohio St.2d 79, 434 N.E.2d 1356 (1982), syllabus. It is not the function of an appellate court to substitute its judgment for that of the factfinder. State v. *Jenks,* 61 Ohio St.3d 259, 279, 574 N.E.2d 492 (1991).

{¶49} Any inconsistencies in the witnesses' accounts were for the trial court to resolve. *State v. Dotson*, 5th Dist. Stark No. 2016CA00199, 2017-Ohio-5565, ¶ 49. "Indeed, the factfinder is free to believe all, part, or none of the testimony of each witness appearing before it." *State v. Pizzulo,* 11th Dist. Trumbull No. 2009–T–0105, 2010–Ohio–2048, ¶ 11. Furthermore, if the evidence is susceptible to more than one interpretation, a reviewing court must interpret it in a manner consistent with the verdict. *Id.*

{¶50} Upon our review of the entire record, we conclude appellant's G.S.I. conviction is supported by sufficient evidence and is not against the manifest weight of the evidence. Appellant's two assignments of error are overruled.

CONCLUSION

{¶51} Appellant's two assignments of error are overruled and the judgment of the Licking County Court of Common Pleas is affirmed.

By: Delaney, J.,

Hoffman, P.J. and

Baldwin, J., concur.