[Cite as *State v. J.E.C.*, 2013-Ohio-1909.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
		No. 12AP-584
v.	:	(C.P.C. No. 11CR-09-4980)
[J.E.C., Jr.],	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on May 9, 2013

Ron O'Brien, Prosecuting Attorney, and *Valerie B. Swanson*, for appellee.

Yavitch & Palmer Co., L.P.A., and *Nicholas Siniff*, for appellant.

APPEAL from the Franklin County Court of Common Pleas.

SADLER, J.

{¶ 1} Defendant-appellant, J.E.C., Jr., appeals from the judgment of the Franklin County Court of Common Pleas, which convicted him of five counts of rape, one count of gross sexual imposition, and one count of sexual battery. For the following reasons, we affirm.

I. BACKGROUND

{¶ 2} Appellant was indicted on six counts of rape, first-degree felonies, in violation of R.C. 2907.02. Three of the rape counts pertained to appellant having vaginal intercourse with children under 13 years of age, one of the rape counts pertained

to a child under the age of 13 engaging in fellatio with appellant, and two of the rape counts pertained to appellant forcing another to engage in vaginal intercourse. Appellant was also indicted on one count of gross sexual imposition, a third-degree felony, in violation of R.C. 2907.05, and one count of sexual battery, a third-degree felony, in violation of R.C. 2907.03. Appellant pleaded not guilty to the charges, and a jury trial commenced.

{¶ 3} The case went to trial in May 2012, and the following facts were established. Appellant was previously married to K.H. and B.H.'s mother, D.T., and had previously dated L.R. and P.R.'s mother, T.K. When appellant's separate relationships with D.T. and T.K. ended, he continued to visit with their children, and the children became acquainted with one another. All of the children referred to appellant as "Dad."

{¶ 4} P.R. testified that on August 16, 2009, when she was 13 years old, she spent the night with L.R. at appellant's home. Sometime after midnight, appellant came out to the living room where P.R. was watching television, and he started to rub P.R.'s leg. Appellant told P.R. that he would kill her if she told her mother about what he was going to do. He then removed her clothes and asked if she would make love to him. Although she told him no, he put her hands above her head and put his penis in her vagina. P.R. told appellant to get off of her, but he continued to hold her hands above her head. He eventually stopped and went to his bedroom.

{¶ 5} According to P.R., appellant returned to the living room about three hours later, grabbed her arm, took her to his bedroom, and laid her down on the floor. Appellant again asked P.R. if she wanted to make love with him. Despite P.R. answering no, appellant took off P.R.'s clothes, got on top of her, put her hands above her head, and put his penis inside her vagina. Appellant stopped when P.R. started bleeding. P.R. did not tell anyone about the incident, but wrote a note to herself two nights after the rape in an effort to help her cope with the rape. The note contained the statement, "what 36 year old would want to take a 13 year old['s] virginity[?]" (State's Ex. B1.)

{¶ 6} After the rape, P.R. started to not get along with her mother, and she engaged in self-mutilation. She was also in and out of the psychiatric ward around that

time period. P.R. stated she did not immediately disclose the sex abuse to her mother because she believed appellant's threats and was scared. Approximately two months after the incident, P.R. got into an argument with her mother and stepfather. After her mother left the house, P.R.'s stepfather commented on P.R.'s behavioral changes. At that time, P.R. told her stepfather that she had been raped by appellant. P.R. also told her stepfather that she had sex with another boy two months after the rape and that the boy called P.R. to tell her that he thought she had given him Chlamydia. According to P.R., she felt safe talking about the rape at that time because appellant was not allowed to come to her house due to an unrelated feud between him and P.R.'s mother. P.R.'s stepfather contacted P.R.'s mother and told her about his conversation with P.R. In December 2009, after P.R. disclosed the sex abuse, her mother took her to be interviewed and examined at the Center for Child and Family Advocacy ("CCFA").

{¶ 7} L.R. testified that appellant sometimes gave her money, and that he would give her, B.H., K.H., and P.R. marijuana, alcohol, and cigarettes. When L.R. visited appellant by herself, she slept with him in his bed. L.R. testified that around September 2009, when she was ten years old, she and appellant were in bed together, and appellant touched her on top of her clothes, pulled down her shorts, and touched her vagina. She claimed that she pulled her shorts up and told appellant to stop and leave her alone. Appellant left and went into the kitchen.

{¶ 8} According to L.R., that same night, about two hours later, appellant came back into the bedroom. He was not wearing a shirt and his boxers were down around his knees. Appellant pulled L.R.'s shorts and underwear down to her knees. L.R. was lying on her side, and while appellant was behind her, he rubbed her vagina with his hands and put his penis inside her vagina. L.R. told appellant to stop, but he refused to do so until she slapped him.

{¶ 9} L.R. testified she did not immediately tell anyone that appellant raped her because she did not want to ruin her relationship with K.H. and B.H. At some point, L.R. told P.R. that she was going to implicate their stepfather in the sex abuse, and, in fact, L.R. blamed him for the sex abuse during a time she spoke with children services.

The testimony does not reveal specifically when these conversations took place with P.R. or children services.

{¶ 10} In December 2009, L.R., along with her sister, was taken to CCFA to be interviewed and examined. L.R. told CCFA personnel that appellant rubbed her vagina. Subsequent to this interview, L.R. told a sheriff's detective that she was truthful in her interview with CCFA personnel. At trial, she recanted her statement about her stepfather sexually abusing her and admitted that he had not.

{¶ 11} T.K. testified that appellant's relationship with L.R. started out parental, but then turned into a "lover's relationship." (Tr. Vol. I, 193.) According to T.K., L.R. and appellant would go everywhere together, and L.R. would sit on appellant's lap and kiss him on the lips. T.K. also testified that L.R. told her, after the interview at CCFA, that her stepfather sexually abused her, but she recanted that statement two or three weeks later. T.K. next testified that she noticed a change in P.R.'s behavior around the end of August 2009. P.R. was not doing well in school, and she fought and hit T.K. several times.

{¶ 12} Franklin County Sheriff Deputy Declan Ferry testified that he and Deputy Kenneth Couch went to appellant's residence in late 2009 to discuss the sex abuse accusations pertaining to L.R. and P.R. Deputy Ferry stated that a man was outside the house claiming to be the father of the two girls who were sexually abused by appellant. Deputy Ferry noted that he and his partner did not find appellant at the residence. They instead saw a man fleeing from the area, and the father of the two victims pointed to the fleeing man and said, "there's the guy you're looking for." (Tr. Vol. I, 244.) Deputy Ferry yelled for the fleeing man to stop, but the man kept going. John Shankle lived with appellant at the time and testified that, when the police showed up at their residence, appellant escaped through a bedroom window.

{¶ 13} Franklin County Sheriff Detective Kevin Foos testified that he tried to find appellant after he fled from Deputies Ferry and Couch. Detective Foos discovered that appellant fled to Tennessee but eventually returned to Ohio on January 19, 2010. On January 20, 2010, Detective Foos spoke with P.R. and L.R. about the sex abuse. P.R.

was cooperative, but L.R. was upset and said that she loved appellant and was going to be with him when she was 18 years old.

{¶ 14} Columbus Police Detective Sterling Trent testified that he spoke with L.R. in September 2011, approximately one and one-half years after L.R. talked with Detective Foos. L.R. told Detective Trent more than what she had disclosed during her initial interview at CCFA. Detective Trent explained that children "may talk about some of the things that happened and leave it at that when [they] first discuss" sex abuse. (Tr. Vol. I, 513.)

{¶ 15} B.H. testified that, when she and K.H. visited appellant, she would sometimes sleep with appellant in his bed, and K.H. would sleep in another room. B.H. alleged that appellant put his penis inside her vagina on 13 different occasions during her visits between 2010 and 2011—the first time occurring when B.H. was ten years old, and the last time when she was 11 years old. B.H. denied at trial that appellant's hands or mouth touched her body or that she touched appellant's penis with her hands or mouth. She testified that K.H. walked in on them once when she was being sexually assaulted by appellant.

{¶ 16} B.H. also testified that, when appellant's wife, V.C., moved in with him, the sexual abuse continued, although no abuse happened in front of her. B.H. cared for V.C. and called her "Mom," and B.H. explained that she did not immediately tell anyone about the sex abuse because she was scared that revealing the information would result in her not being able to see V.C. (Tr. Vol. I, 296.)

{¶ 17} In May 2011, B.H. was taken to CCFA when she complained that her "private part" felt like it was "burning." (Tr. Vol. I, 299.) She did not tell anyone at CCFA about appellant sexually abusing her. In August 2011, B.H. was taken to CCFA again after it was revealed that she was having sex with her cousin. Before going to CCFA, B.H. told her mother about appellant sexually abusing her. B.H. admitted telling V.C. in a phone conversation in October 2011 that it was her Uncle J., and not appellant, who sexually abused her. B.H. also said during that conversation that she told her mother about Uncle J. abusing her, but that her mother did not believe it. B.H. testified

that she did not implicate appellant during this conversation because she did not want to ruin her relationship with V.C.

{¶ 18} K.H. testified that appellant would sometimes give him and B.H. money. He additionally noted that appellant would give B.H. gifts and that she was "spoiled" by appellant. (Tr. Vol. I, 360.) K.H. also discussed three incidents in which he saw appellant and B.H. engage in inappropriate activity. During the first incident, K.H. was in appellant's bedroom playing a videogame when he fell asleep. He later woke up and saw appellant in bed moving up and down on top of B.H. and noticed that appellant and B.H. had their clothes on the floor. K.H. did not say anything to appellant or B.H. During the second incident, K.H. went in appellant's bedroom to see B.H. rolling off the top of appellant in bed. The third incident occurred at the home of appellant's mother. Appellant and B.H. were lying together on the couch. K.H. was watching a movie in the same room and glanced over to see if B.H. was watching the movie. K.H. noticed that appellant was lying flat, but sideways. A blanket was partially covering appellant and B.H. From the waist up, B.H. was completely covered by the blanket, and she was positioned by appellant's waist and facing toward him. The blanket was moving side-to-side, and appellant's hands were on top of the blanket. K.H. concluded that he was witnessing a "blow-job," which is a term he understands to mean a "girl using her mouth on a man's penis." (Tr. Vol. I, 390.)

{¶ 19} K.H. claims he did not tell his mother what he saw until months after the incidents because he was afraid of appellant. He recalled a time when appellant beat him for spray painting some chairs.

{¶ 20} Paula Samms is a former forensic interviewer at CCFA and interviewed P.R. and L.R. in 2009. Samms testified as follows about those interviews. P.R. said that appellant raped her twice in one night. L.R. discussed an incident in which appellant was lying behind her in bed and put his hands down her pants to rub the outside of her vagina. L.R. said that appellant left her alone when she slapped him.

{¶ 21} Samms also discussed her experiences with children's disclosure of sex abuse. She noted that most children do not disclose everything about their sex abuse all

at once. She additionally indicated that children who have been sexually abused may experience changes in their behavior such as having trouble at home or at school or injuring themselves.

{¶ 22} Jennifer Westgate, a forensic interviewer at CCFA, interviewed B.H. in May and August 2011, and she testified as follows about those interviews. During the May interview, B.H. did not disclose any sexual abuse. However, during the August interview, B.H. said that appellant fondled her and vaginally raped her multiple times. Westgate was not surprised that B.H. did not reveal the sex abuse during the May interview because a child's disclosure of sex abuse "can be a process." (Tr. Vol. I, 481.) In discussing a child's disclosure of sex abuse in general, Westgate said that it would not surprise her if a child recanted a sex abuse disclosure only to reaffirm it later. She further noted that children may not feel comfortable disclosing certain acts of sex abuse, and that it is sometimes very difficult for parents to learn that their children were forced to engage in oral sex.

{¶ 23} Gail Horner, a pediatric nurse practitioner at CCFA, testified that, in December 2009, she conducted physical exams on P.R. and L.R. She said that P.R.'s exam was normal. However, Horner testified that 90 to 95 percent of children who have been sexually abused have normal exams. Horner also testified that L.R.'s exam revealed a tear in her hymen. According to Horner, this tear could not be explained by someone merely fondling or touching her hymen or vagina and testified that the tear was consistent with vaginal intercourse.

{¶ 24} Horner also testified that she examined B.H. in August 2011, and that she discovered nothing abnormal except that B.H. tested positive for a sexually transmitted infection. According to Horner, either appellant or the boy that B.H. had sex with four days prior were the possible sources for the disease. However, due to the seriousness of the infection, Horner thought that it would be more likely that she had the disease longer than four days.

{¶ 25} Horner further testified that a child's disclosure of sex abuse "is a process." (Tr. Vol. I, 542.) She noted that "children don't always disclose everything that happens

to them at once. They kind of test the waters and want to see what is the result of their disclosure, or emotionally, they're not ready to disclose." (Tr. Vol. I, 542.) Horner further stated that L.R.'s process of disclosure was hindered by the fact that "she was very emotionally attached to her perpetrator." (Tr. Vol. I, 542.)

{¶ 26} After the prosecution rested its case-in-chief, appellant moved for an acquittal, pursuant to Crim.R. 29, on the rape by fellatio count pertaining to B.H. The trial court denied the motion.

{¶ 27} Appellant testified on his own behalf and denied forcing P.R. into having sex with him. He also denied sharing a bed with L.R., touching her inappropriately or having sex with her. He additionally denied having sex with B.H. Appellant claimed that he fled from the police in late 2009 because he was worried about an existing warrant for his arrest and claimed he did not know about the sex abuse accusations at that time. The prosecution questioned appellant on why there was no record that a warrant existed at that time, and appellant responded that he received a letter notifying him of the warrant. He explained he fled to Tennessee and stayed with his father, who was sick. While in Tennessee, appellant learned that the police were still looking for him, and he returned to Ohio and went to the police on January 19, 2010. Appellant was placed in custody for ten days. Appellant lastly admitted to giving P.R. and L.R. cell phones as gifts.

{¶ 28} Appellant rested and renewed his Crim.R. 29 motion on the rape by fellatio count pertaining to B.H. The motion was denied. The jury found appellant guilty on all charges except for Count 2, which was a count alleging vaginal rape of B.H. The trial court sentenced appellant to prison for 29 years to life.

II. ASSIGNMENTS OF ERROR

{¶ 29} Appellant filed a timely notice of appeal and assigns the following as error:

> [I.] The trial court erred by overruling appellant's Crim.R. 29 motion for judgment of acquittal and thereby deprived appellant of due process of law as guaranteed by the Fourteenth Amendment to the United States Constitution and comparable provisions of the Ohio Constitution.

> [II.] The trial court violated appellant's right to due process as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 10 of the Ohio Constitution by entering verdicts of guilty, as the jury's verdict was against the manifest weight of the evidence.

III. DISCUSSION

A. First Assignment of Error

{¶ 30} In his first assignment of error, appellant contends that the trial court erred in denying his Crim.R. 29 motion for acquittal on Count 3 of the indictment, which pertained to the rape by fellatio involving B.H. We disagree.

{¶ 31} A Crim.R. 29 motion for acquittal tests the sufficiency of the evidence. *State v. Ingram*, 10th Dist. No. 11AP-1124, 2012-Ohio-4075, ¶ 17. We thus review the trial court's denial of appellant's motion for acquittal using the same standard applicable to a sufficiency of the evidence review. *Id.*

{¶ 32} Sufficiency of the evidence is a legal standard that tests whether the evidence is legally adequate to support a verdict. *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). Whether the evidence is legally sufficient to support a verdict is a question of law, not fact. *Id.* In determining whether the evidence is legally sufficient to support a verdict, " '[t]he 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.' " *State v. Robinson*, 124 Ohio St.3d 76, 2009-Ohio-5937, ¶ 34, quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. A verdict will not be disturbed unless, after viewing the evidence in a light most favorable to the prosecution, it is apparent that reasonable minds could not reach the conclusion reached by the trier of fact. *State v. Treesh*, 90 Ohio St.3d 460, 484 (2001).

{¶ 33} In a sufficiency of the evidence inquiry, appellate courts do not assess whether the prosecution's evidence is to be believed, but whether, if believed, does the evidence support the verdict. *State v. Yarbrough*, 95 Ohio St.3d 227, 2002-Ohio-2126, ¶ 79-80 (concluding that the evaluation of witness credibility is not proper on a review

for the sufficiency of evidence); *State v. Bankston*, 10th Dist. No. 08AP-668, 2009-Ohio-754, ¶ 4, citing *State v. Woodward*, 10th Dist. No. 03AP-398, 2004-Ohio-4418, ¶ 16 (noting that "in a sufficiency of the evidence review, an appellate court does not engage in a determination of witness credibility; rather, it essentially assumes the state's witnesses testified truthfully and determines if that testimony satisfies each element of the crime").

{¶ 34} Appellant argues that there was insufficient evidence to establish that B.H. performed fellatio on him. While B.H. denied performing fellatio on appellant, plaintiff-appellee, the state of Ohio, claims that K.H.'s testimony established that B.H. and appellant engaged in that sex act. Although appellant claims that K.H. was not credible, this court does not examine the credibility of the evidence when reviewing a Crim.R. 29 motion. *Columbus v. McDaniel*, 10th Dist. No. 09AP-879, 2010-Ohio-3744, ¶ 18. Therefore, we consider whether K.H.'s testimony, if believed, established that B.H. performed fellatio on appellant.

{¶ 35} K.H. testified that he saw B.H. and appellant on the couch one evening when he was watching television. B.H.'s head was moving side to side under a blanket near appellant's waist. K.H. determined that he was witnessing a "blow-job," which is a term he understands to mean a "girl using her mouth on a man's penis." (Tr. Vol. I, 390.)

{¶ 36} Although K.H. did not actually see B.H. have contact with appellant's penis, the jury was permitted to draw reasonable inferences from K.H.'s testimony. *State v. Wood*, 10th Dist. No. 07AP-162, 2007-Ohio-6380, ¶ 29. Consequently, we conclude, construing the evidence in a light most favorable to the state, that it was reasonable for the jury to infer from K.H.'s testimony that B.H. was performing fellatio on appellant. Because K.H. sufficiently established that fellatio occurred, we hold that the trial court did not err by denying appellant's Crim.R. 29 motion for acquittal. Accordingly, we overrule appellant's first assignment of error.

B. Second Assignment of Error

{¶ 37} In his second assignment of error, appellant argues that his convictions are against the manifest weight of the evidence. We disagree.

{¶ 38} When presented with a manifest weight challenge, an appellate court may not merely substitute its view for that of the trier of fact, but 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. *Thompkins* at 387. An appellate court should reserve a conviction as being against the manifest weight of the evidence for only the most " 'exceptional case in which the evidence weighs heavily against the conviction.' " *Id.*, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983).

{¶ 39} Consequently, although an appellate court must act as a "thirteenth juror" when considering whether the manifest weight of the evidence requires reversal, it must give great deference to the factfinder's determination of the witnesses' credibility. *State v. Covington*, 10th Dist. No. 02AP-245, 2002-Ohio-7037, ¶ 22; *State v. Hairston*, 10th Dist. No. 01AP-1393, 2002-Ohio-4491, ¶ 17.

{¶ 40} Appellant first contends that his convictions are against the manifest weight of the evidence because there was no physical evidence connecting him to any of the sex offenses. There is no requirement that a defendant's conviction for a sex offense be based on physical evidence. *State v. Johnson*, 112 Ohio St.3d 210, 2006-Ohio-6404, ¶ 53.

{¶ 41} Appellant raises specific manifest weight challenges to the sex offenses pertaining to each victim. Count 1 involves the vaginal rape of B.H. when she was under 13 years of age. Although appellant notes that B.H. did not immediately disclose that he raped her, B.H. explained that she was afraid that revealing the information would result in her not being able to see V.C. It was within the province of the jury to take this explanation into consideration when weighing the evidence in order to determine whether or not it found B.H.'s testimony credible.

{¶ 42} Appellant also challenges B.H.'s testimony because she previously equivocated on the facts of the sex abuse and on who the perpetrator was. "A defendant is not entitled to a reversal on manifest weight grounds merely because inconsistent evidence was presented at trial. The trier of fact is free to believe or disbelieve all or any of the testimony." (Citation omitted.) *State v. Williams*, 10th Dist. No. 08AP-719, 2009-Ohio-3237, ¶ 16. *See also State v. Banks*, 10th Dist. No. 09AP-13, 2009-Ohio-4383, ¶ 15 (concluding that the factfinder is free to resolve or discount alleged inconsistencies). "The trier of fact is in the best position to take into account inconsistencies, along with the witnesses' manner and demeanor, and determine whether the witnesses' testimony is credible." (Citations omitted.) *Williams* at ¶ 16. It is the province of the factfinder to determine the truth from conflicting evidence, whether the conflicting evidence comes from different witnesses or is contained within the same witness's testimony. *State v. Eisenman*, 10th Dist. No. 10AP-809, 2011-Ohio-2810, ¶ 19.

{¶ 43} Here, although the jury heard evidence of B.H.'s equivocation about the sex abuse, witnesses for the prosecution testified about the difficulty children have in disclosing sex abuse and the fact that the disclosure is a process whereby children do not reveal all the facts at once. One of those witnesses, Westgate, further noted that children sometimes equivocate on their disclosure. Consequently, the jury, as trier of fact, was in the best position to consider and resolve the conflicts in B.H.'s testimony and to take into consideration evidence detailing the process by which children disclose sex abuse.

{¶ 44} In the final analysis, the trier of fact is in the best position to determine witness credibility. *State v. Cameron*, 10th Dist. No. 10AP-240, 2010-Ohio-6042, ¶ 43. The jury accepted evidence proving that appellant vaginally raped B.H., as alleged in Count 1, and appellant has not demonstrated a basis for disturbing the jury's conclusion. Accordingly, we conclude that appellant's conviction on that count is not against the manifest weight of the evidence.

{¶ 45} Appellant next argues that his conviction on Count 3, pertaining to rape by fellatio with B.H., is against the manifest weight of the evidence. He contends that K.H. was not credible when he testified that he observed B.H. perform fellatio on him because K.H. did not immediately disclose this incident. K.H. testified at trial that he failed to do so because he was afraid of appellant, and it was within the province of the jury to take this explanation into consideration when evaluating K.H.'s credibility.

{¶ 46} Appellant also claims that K.H. was not credible because B.H.'s testimony differed in that B.H.'s testimony of the abuse pertained to vaginal rape, not fellatio. " '[W]here a factual issue depends solely upon a determination of which witnesses to believe, that is the credibility of witnesses, a reviewing court will not, except upon extremely extraordinary circumstances, reverse a factual finding * * * as being against the manifest weight of the evidence.' " *In re L.J.*, 10th Dist. No. 11AP-495, 2012-Ohio-1414, ¶ 21, quoting *In re Johnson*, 10th Dist. No. 04AP-1136, 2005-Ohio-4389, ¶ 26. The rationale is that the trier of fact is in the best position to take into account inconsistencies, along with the witnesses' manner and demeanor and determine whether the witnesses' testimony is credible. *In re C.S.*, 10th Dist. No. 11AP-667, 2012-Ohio-2988, ¶ 31. Likewise, the trier of fact is free to believe or disbelieve any part of the witnesses' testimony. *Id.*

{¶ 47} The jury, as trier of fact, was in the best position to consider the discrepancies in the testimony regarding whether B.H. performed fellatio on appellant. Moreover, given Westgate's testimony that children may have difficulty disclosing some acts of sex abuse over others, and based on the established pattern of appellant taking advantage of his relationship with B.H. in order to sexually abuse her, we cannot say that this was one of the rare cases in which the trier of fact clearly lost its way in believing K.H.'s testimony that fellatio occurred between B.H. and appellant. Therefore, we conclude that appellant's conviction on Count 3, for rape by fellatio pertaining to B.H., is not against the manifest weight of the evidence.

{¶ 48} Appellant next contends that his convictions on Count 4, for raping L.R. when she was under 13 years of age, and Count 5, for gross sexual imposition on L.R.,

are against the manifest weight of the evidence. Those convictions stem from L.R. testifying that appellant had vaginal intercourse with her when she was under 13 years of age. Appellant argues that L.R. is not credible because she did not immediately implicate him in the sex abuse, and that she previously equivocated on the facts of the sex abuse and on the identity of the perpetrator. L.R. testified she did not immediately implicate appellant because she did not want to ruin her relationship with K.H. and B.H. It was within the province of the jury to take this explanation into consideration when evaluating L.R.'s credibility and to resolve the conflicts in L.R.'s testimony, as well as the conflicts between L.R.'s testimony and that of appellant's.

{¶ 49} We conclude that the jury did not create a manifest injustice by convicting appellant of Counts 4 and 5. Accordingly, we conclude that appellant's convictions on those counts are not against the manifest weight of the evidence.

{¶ 50} Appellant lastly argues that his convictions on Counts 6 and 7, for the forcible rape of P.R., and Count 8, for the sexual battery of P.R., are against the manifest weight of the evidence. Those convictions stem from P.R.'s testimony that appellant forced her to have vaginal intercourse with him on August 16, 2009. Appellant contends that P.R. was not credible because she did not reveal the sex abuse until well after it occurred and also claimed P.R.'s allegations of abuse stem from a story she fabricated to divert her mother's anger from an argument between the two of them. The jury heard P.R.'s explanation that the delay was due to appellant scaring her into believing that he would harm her if she disclosed the sex abuse, as well as the evidence involving the note P.R. wrote to herself and the purpose with which she wrote the note.

{¶ 51} Although appellant contends the note has no evidentiary value, the note and its value is an issue within the jury's province in determining which evidence or witness is credible. In assessing P.R.'s credibility, the jury could consider P.R.'s behavioral changes, including self-mutilation, in determining which evidence or testimony was credible.

{¶ 52} Because it was within the jury's province to determine the credibility of L.R., we find no manifest injustice behind appellant's convictions for Counts 6, 7, and 8.

Accordingly, we conclude that appellant's convictions on those counts are not against the manifest weight of the evidence.

{¶ 53} Having concluded that none of appellant's convictions are against the manifest weight of the evidence, we overrule his second assignment of error.

IV. CONCLUSION

{¶ 54} In summary, we overrule appellant's first and second assignments of error. Therefore, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

KLATT, P.J., and DORRIAN, J., concur.
