

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 15AP-657 (C.P.C. No. 14CR-0158)
Michael J. Reinlasoder,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on June 28, 2016

On brief: *Ron O'Brien*, Prosecuting Attorney, and *Michael P. Walton*, for appellee. **Argued:** *Michael P. Walton*.

On brief: *Brian J. Rigg*, for appellant. **Argued:** *Brian J. Rigg*.

APPEAL from the Franklin County Court of Common Pleas

HORTON, J.

{¶ 1} Defendant-appellant, Michael J. Reinlasoder ("Reinlasoder" or "appellant"), appeals from a judgment of conviction and sentence entered by the Franklin County Court of Common Pleas. Because his convictions are supported by sufficient evidence and are not against the manifest weight of the evidence, we affirm that judgment.

I. FACTS AND PROCEDURAL HISTORY

{¶ 2} On January 10, 2014, the Franklin County Grand Jury returned an indictment charging Reinlasoder with two counts of rape and one count of kidnapping, all of which are first-degree felonies. Each charge carried a repeat violent offender specification. (Indictment at 1-3.) Reinlasoder admits that he received oral sex from R.K.,

the alleged victim. In dispute is whether the events were consensual, or as a result of the threat of force.

{¶ 3} The trial commenced on May 4, 2015. At trial, R.K. testified that she is a 43-year-old widow, who immigrated to the United States 21 years ago. (Tr. at 44-46.) For part of her income, R.K. provides "erotic sensual massage with happy endings," i.e., manual masturbation. *Id.* at 47. R.K. testified that she does not, and never has, engaged in intercourse or fellatio as part of her services. *Id.* R.K. advertises her services on the internet and her ad reads in part "I offer a sensual massage that you won't soon forget! You'll leave with a huge smile that won't be wiped off your face for days. So, call this Sexy, Full of Energy Russian lady for the massage you deserve! No blocked calls or emails please, limited texts please. \$130 an hour (my place or your place/hotel)]." (State's Ex. T.; Tr. at 48.) R.K. testified that the promises mentioned in her ad mean manual masturbation by touching only. (Tr. at 47.) According to her, this was something that was supposed to be inferred, something many people are aware of that use this website. *Id.* at 58-59.

{¶ 4} At approximately 4:30 a.m. on January 3, 2014, R.K. received a phone call from Reinlasoder, who was responding to her ad. *Id.* at 50, 306. At that time, Reinlasoder was in his apartment at 77 Rocky Creek Drive in Gahanna. Also present and sleeping in the apartment were his girlfriend and their young daughter. *Id.* at 379. According to R.K., during the call, Reinlasoder requested that she come to an address that he would send her via text message. *Id.* at 50-52. After sending the wrong address (73 Rocky Creek Drive) in a text message, Reinlasoder called R.K. again to instruct her to call him back when she was one minute away from the destination, so he could guide her to the correct address, and to "wear boots with heels." *Id.* at 53. According to R.K., there was no other discussion of importance and Reinlasoder did not mention any other items or props that he would use as part of the encounter. *Id.* at 54.

{¶ 5} According to R.K., "I remember for sure he didn't ask me the scope of the services, and -- but most people know that if you only list yourself in body rubs, that it's not a full -- it's not sex or oral sex." *Id.* at 58. R.K. stated that her advertisement was "[f]or exotic or erotic body rub, touch only, no -- I have never, ever provided, offered anything more than that." *Id.* at 60.

{¶ 6} While driving to Gahanna, Reinlasoder and R.K. spoke again wherein he asked her to be discreet and to park in the parking lot adjacent to the Gahanna Public Library. *Id.* at 54-55. R.K. believed that she would walk through a wooded area between the library to Reinlasoder's apartment. *Id.* at 56. R.K. parked in the Gahanna Public Library lot while still on the phone with Reinlasoder and exited her car. *Id.* at 57.

{¶ 7} At this point, R.K. noticed movement and turned to see Reinlasoder approaching "holding a rifle" and "knew I was in big trouble." *Id.* at 60. Reinlasoder had not warned R.K. that he was going to bring a "rifle" to the meeting. *Id.* at 153. R.K. became extremely scared and feared for her life. *Id.* at 60-61. Reinlasoder was wearing a dark hooded sweatshirt with the hood covering his head. *Id.* at 61. As he reached R.K., Reinlasoder stated, "[s]uck it and you won't get hurt." *Id.* Reinlasoder asked R.K. to walk farther with him into the wooded area. *Id.* at 62-63. R.K. stated that she followed him because he had a weapon and she was scared and felt she did not have a choice. *Id.* at 62-63. Once in the woods, Reinlasoder ordered R.K. to perform fellatio and she complied. *Id.* at 64-65. R.K. denies that he told her the gun was not real. *Id.* at 140.

{¶ 8} After a short time, R.K. told Reinlasoder that she was cold and wanted to return to her car in order to keep warm and Reinlasoder agreed. *Id.* at 65-68. At 5:40 a.m., within minutes of the initial meeting, on the way back to her car, R.K. managed to dial 911 without Reinlasoder's knowledge. *Id.* at 68, 313. There were several attempts by R.K. to call 911, and an incoming call from 911. *Id.* at 309-10. R.K. explained her strategy that "I wanted them to hear my conversation and see I was distraught." *Id.* at 68. R.K. began to talk about her location in a loud voice, hoping that the dispatcher would hear and send help. *Id.* Reinlasoder did notice the phone at this point and told R.K. to leave the phone outside the car. *Id.* at 69. R.K. made an excuse that she was just getting an incoming call, and he allowed R.K. to keep her phone. *Id.* at 69, 71-72.

{¶ 9} R.K. testified that she and Reinlasoder got into the back seat of R.K.'s car, and she again engaged in fellatio against her will. *Id.* at 71. R.K. believes that she turned her vehicle on to provide heat. *Id.* at 147. Eventually, Reinlasoder ejaculated in R.K.'s mouth. *Id.* at 75. R.K. spit out the ejaculate and wiped it off on her dress. *Id.* Reinlasoder exited the car and had a "disconnected" expression. *Id.* at 79. After exiting the car, Reinlasoder fell to the ground. *Id.* at 80. In addition, Reinlasoder left the "rifle" in the

back seat. *Id.* at 292. R.K. denies that he gave her any money and that she punched him. *Id.* at 148-49, 154.

{¶ 10} R.K. got into the driver's seat before observing Reinlasoder fall for a second time. *Id.* at 81. At 6:26 a.m., R.K. drove away and called 911. *Id.* at 82, 229-30. In her call, R.K. was upset and began to yell at the dispatcher, because help was never sent in response to the first two calls. *Id.* at 84. R.K. met with Gahanna Police officers a short time later. *Id.*

{¶ 11} On cross-examination, R.K. admitted that Reinlasoder never aimed the "rifle" or leveled it in her direction. *Id.* at 140, 147. R.K. conceded that there was no way for her to discern Reinlasoder's familiarity with the terms she used in her ad, and agreed that he easily "could have thought that I was going to give him everything he ever wanted." *Id.* at 124.

{¶ 12} The "rifle" in question turned out to be a BB gun. *Id.* at 387. When Gahanna Police Officer Gary Lawrence saw the BB gun through R.K.'s back window, he also believed that it was a rifle. *Id.* at 161. Reinlasoder admitted that he did not tell R.K. that he was going to bring a BB gun, and that the BB gun looked like a rifle. *Id.* at 383, 411-12.

{¶ 13} Reinlasoder testified to a different version of the events. In relevant part, he stated that while looking at the various service listings, R.K.'s ad stood out to him. *Id.* at 382. He said "her ad spoke as if—as if she was going to fill all of these desires, these things that I wanted to try, things that I was curious about." *Id.* Reinlasoder alleges that he spoke with R.K. about his interest in domination fetishes. *Id.* at 383.

{¶ 14} Reinlasoder also alleges that he never intended to use the "rifle" as a weapon but rather that it furthered his fantasy as part of their role playing. *Id.* at 387. He claims that he explained to R.K. that the "rifle" was a BB gun and was a prop. *Id.* Without discussing price or the scope of her services, Reinlasoder asked R.K. to walk with him into a wooded area and she followed behind him. *Id.* at 389. Once there, he engaged in what he considers dirty talk. *Id.* at 390. R.K. performed oral sex on him, stopping occasionally to talk about money. He assured her that he would pay. *Id.* 391. R.K. then complained that she was cold and asked that they return to her car. *Id.* at 65-68, 392.

{¶ 15} Reinlasoder claims that unbeknownst to him, R.K. was upset and proceeded to dial 911 as they walked to her car. *Id.* at 393. The whole time he was unaware that she

was upset or had called 911. He was, however, aware she had a phone and never made an attempt to stop her from answering or otherwise restrict her communication. *Id.* at 393.

{¶ 16} Reinlasoder claims that while they were in the car, R.K. again complained that she was cold so he got out of the backseat, went around and started the car and turned on the heat before returning to the backseat. *Id.* at 392. The whole time the BB gun was left propped up in the backseat within her reach, and R.K. made no efforts to call 911 or flee. *Id.*

{¶ 17} According to Reinlasoder, after the sex act was completed, R.K. asked him about payment and he presented her with twenty dollars. *Id.* at 394. Insulted, R.K. punched him in the genitals, took all of the money in his wallet (for a total of \$80) and pushed him out of the car where he stumbled and fell. *Id.* at 395-396. He left the BB gun in the car because he was distracted from just having been robbed. *Id.* at 397.

{¶ 18} On the morning of January 3, 2014, Gahanna Police officers were dispatched to the BP gas station at the corner of Granville and South Hamilton on a report that R.K. had been raped. *Id.* at 157. R.K. indicated to the officers that she had been orally raped and had male body fluids present on her. *Id.* at 158-59. Upon learning that the incident had occurred in her car at a separate location, the officers had R.K.'s car impounded with the BB gun still in it, and transported R.K. to the Gahanna Public Library. *Id.* at 209. After walking the officers through what happened, she was transported to the hospital to be examined. *Id.* at 86.

{¶ 19} On May 4, 2015, the matter proceeded to a jury trial. On May 7, 2015, the jury returned a verdict of guilty as to both rape counts in violation of R.C. 2907.02. The jury returned a verdict of not guilty as to kidnapping. The trial court found Reinlasoder to be a repeat violent offender. Reinlasoder was sentenced to an aggregate prison term of 10 years. In addition, the court notified him that he will be classified as a Tier III sexual offender with registration duties to last a lifetime, in person verification every 90 days, and community notification will be sent. (Corrected Jgmt. Entry at 1-2.)

II. ASSIGNMENT OF ERROR

{¶ 20} Reinlasoder appeals, assigning a single error:

The verdict is against the sufficiency and manifest weight of the evidence.

III. APPELLANT'S CONVICTIONS ARE SUPPORTED BY SUFFICIENT EVIDENCE AND ARE NOT AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE

{¶ 21} Sufficiency of the evidence is a legal standard that tests whether the evidence introduced at trial is legally sufficient to support a verdict. *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). We examine the evidence in the light most favorable to the state and conclude whether any rational trier of fact could have found that the state proved, beyond a reasonable doubt, all of the essential elements of the crime. *State v. Jenks*, 61 Ohio St.3d 259 (1991).

{¶ 22} This court in *State v. Baatin*, 10th Dist. No. 11AP-286, 2011-Ohio-6294, ¶ 8-11, addressed the applicable law:

Although sufficiency and manifest weight are different legal concepts, manifest weight may subsume sufficiency in conducting the analysis; that is, a finding that a conviction is supported by the manifest weight of the evidence necessarily includes a finding of sufficiency. *State v. McCrary*, 10th Dist. No. 10AP-881, 2011-Ohio-3161, ¶ 11 * * * Thus, a determination that a conviction is supported by the weight of the evidence will also be dispositive of the issue of sufficiency. *Id.*

The weight of the evidence concerns the inclination of the greater amount of credible evidence offered to support one side of the issue rather than the other. *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52.

When presented with a challenge to the manifest weight of the evidence, 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. *Id.* at 387. An appellate court should reserve reversal of 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.*; *State v. Strider-Williams*, 10th Dist. No. 10AP-334, 2010-Ohio-6179, ¶ 12.

In addressing a manifest weight of the evidence argument, we are able to consider the credibility of the witnesses. *State v.*

Cattledge, 10th Dist. No. 10AP-105, 2010-Ohio-4953, ¶ 6. However, in conducting our review, we are guided by the presumption that the jury * * * " 'is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.' " *Id.* * * * Accordingly, we afford great deference to the jury's determination of witness credibility.

{¶ 23} R.C. 2907.02(A)(2) states that "[n]o person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force." Reinlasoder argues that he did not act purposely. That is, his possession of what appeared to be a firearm and his order to her to "suck it and you won't get hurt" were merely part of the role playing and "domination" experience that he wanted, and of which R.K. was aware. He argues that it was never his purpose to compel R.K. to submit by force and she never indicated that the activity was anything but consensual. Reinlasoder argues that he mistakenly assumed, based on her ad, that she was a willing participant. Reinlasoder argues that R.K. called 911 because "[s]he obviously felt like I wasn't going to pay her." (Tr. at 437.)

{¶ 24} First, "[a] conviction is not against the manifest weight of the evidence because the jury chose to believe the state's version of events over the defendant's version." *State v. Hawk*, 10th Dist. No. 12AP-895, 2013-Ohio-5794, ¶ 59. In addition, the testimony of one witness, if believed by the jury, is enough to support a conviction. *State v. Strong*, 10th Dist. No. 09AP-874, 2011-Ohio-1024, ¶ 42.

{¶ 25} In weighing the evidence, the record reveals that R.K. was consistent in her testimony. Her version of events never changed. From her contact with the first responder to her testimony on the stand, she maintained that Reinlasoder threatened her with harm if she refused to perform fellatio. The evidence shows that R.K. placed her first call to 911 only a few minutes after the initial meeting. She understood that what she intended to do was illegal, yet she attempted to summon help from the police almost immediately. Her frankness and candor in admitting her illegal conduct to the jury strengthened her credibility.

{¶ 26} In contrast, Reinlasoder's argument that she called 911 only because she was afraid that she would not get paid was unpersuasive. The jury also heard about his

numerous violations of the law, including possessing two firearms and frequenting with prostitutes on three or four occasions, while he was on postrelease control from the six-year prison sentence he served for aggravated robbery convictions with gun specifications, while otherwise would have been inadmissible, contradicted his testimony that he had "bettered himself" while in prison. (Tr. at 374-77, 401-04, 407, 418.) In short, his credibility was lacking, and the jury rejected his version of the events.

{¶ 27} The jury was in the best position to evaluate the witnesses' credibility, and there is no persuasive reason for rejecting that determination. After a thorough review, we find that the jury did not lose its way, nor create a manifest miscarriage of justice. Accordingly, Reinlasoder's convictions are not against the manifest weight of the evidence. This conclusion is also dispositive of Reinlasoder's claim that his convictions are not supported by sufficient evidence. *State v. McCrary*, 10th Dist. No. 10AP-881, 2011-Ohio-3161, ¶ 17. Therefore, we overrule Reinlasoder's assignment of error.

IV. DISPOSITION

{¶ 28} Having overruled appellant's assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

KLATT and BRUNNER, JJ., concur.
