

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

State of Ohio

Court of Appeals No. WD-12-071

Appellee

Trial Court No. 12 CR 212

v.

Daniel Jones

DECISION AND JUDGMENT

Appellant

Decided: March 21, 2014

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, Heather M. Baker and Jacqueline M. Kirian, Assistant Prosecuting Attorneys, for appellee.

Lawrence A. Gold, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Wood County Court of Common Pleas, which convicted appellant of one count of engaging in a pattern of corrupt activity with a specification, in violation of R.C. 2923.32(A)(1)(B)(1), a first degree felony. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Daniel Jones (“appellant”), sets forth the following two assignments of error:

I. The evidence presented at trial was insufficient to sustain a conviction of Engaging in a Pattern of Corrupt Activity in violation of Appellant’s Fifth Amendment right to Due Process under the United States Constitution as applied to the State of Ohio through the Fourteenth Amendment.

II. Appellant’s conviction was not supported by the manifest weight of the evidence presented at trial.

{¶ 3} The following undisputed facts are relevant to this appeal. This case stems from the discovery by several law enforcement organizations in Northwest Ohio that a seemingly legitimate accounting business located in suburban Toledo, owned and operated by appellant, was actually being utilized to camouflage an unlawful internet porn business involving minors.

{¶ 4} Upon the disclosure to law enforcement officials by several of the minors who appellant had recruited in an effort to get them to participate in his online porn venture, an undercover, multi-department investigation of appellant and his accounting business was initiated. The investigation quickly revealed that the full nature of appellant’s business activities surreptitiously extended beyond accounting and encompassed the recruitment and facilitation of minors to engage in live, online porn for profit.

{¶ 5} In order to locate prospects to utilize in his internet porn endeavor, appellant searched for local women and minors on the widely used social media site, Facebook. In late 2011, appellant began contacting numerous women and minors whom he did not know via Facebook under the guise of providing them with an opportunity for a “part-time job that is very flexible and has very good income.”

{¶ 6} Appellant’s true purpose was to solicit, screen, and select women, some of whom were self-described minors, for live webcam modeling and sexual activities which was then streamed on “myfreecams.com.” This website was utilized by appellant to entice paying porn consumers to pay to view those recruited engaging in live online sexual acts. The revenues were then deposited into accounts associated with appellant’s “accounting” business.

{¶ 7} The individuals who were solicited by appellant were directed by appellant to set up a webcam, preferably in their home bedroom, and entertain the viewers by flirting, removing clothing, and ultimately engaging in various sexual acts.

{¶ 8} Significantly, during one of appellant’s Facebook conversations with a prospective “model,” the young victim who had just disclosed that she was only fourteen years old asked appellant, “[you want] me to get on a chatroom with guys show them my boobs and stuff, and get [paid] that much by you?” Appellant replied, “yes * * * you have to work the guys for it but they will tip to see [you] and I mean they tip younger girls big time.”

{¶ 9} Another minor, who was seventeen when recruited by appellant, clearly described in her testimony how appellant urged her to engage in various types of sexual acts for the paying online viewers. Appellant advised her that she would earn far more money by making videos that depicted her “having sex with somebody” or “doing stuff with [herself].”

{¶ 10} Appellant’s aggressive recruitment of local minors for online porn purposes ultimately led to the reporting of appellant’s activities to law enforcement officials. In December 2011, Sergeant Brian Linscott of the Lake Township Police Department received several reports of underage females in Northwest Ohio being solicited by appellant via Facebook for “webcam modeling.” On December 16, 2011, Linscott contacted Detective Patrick Jones of the Perrysburg Police Department to launch a collaborative, undercover investigation of appellant.

{¶ 11} The detective, with the requisite consent, assumed the reporting victim’s online Facebook account and identity in order to reply to appellant’s solicitations. A female undercover officer subsequently posed as the victim and placed a recorded phone call to appellant. The officer, whom appellant believed was the minor female from Facebook, agreed to meet with appellant so that appellant could advise her on how to operate a webcam to begin her online porn work for appellant.

{¶ 12} On December 21, 2011, a meeting was arranged at the Books-a-Million store at Levis Commons in Perrysburg. When appellant arrived at the location, the detective approached appellant and placed him under arrest for “attempted illegal use of a

minor in sexually oriented material.” An inventory of appellant’s possessions confiscated by the police was documented. At the time of his arrest immediately prior to the prearranged meet, appellant possessed a laptop computer, digital camera, flash drive, and some business cards for “Jones Accounting Services.”

{¶ 13} A search warrant was subsequently secured for appellant’s accounting office. Upon the search of appellant’s office, it became evident that appellant’s business had a legitimate accounting component, but also served as a subterfuge for his online porn offering involving minors.

{¶ 14} Two filing cabinets were discovered and searched. The first contained legitimate taxpayer information related to the lawful component of the business. However, a second filing cabinet contained the employment files of the women and minors who appellant used for the online porn enterprise. Recovered from the files were I-9 employment verification forms, pay stubs, and time sheets for eight different women and minors recruited and used by appellant in the porn business. Ironically, the employer information listed on the I-9s was appellant and his accounting office. The acts the victims performed online may have generated additional revenue for appellant but they were in no way connected to his accounting business.

{¶ 15} Subsequently to the office search, a subpoena was issued to Fifth Third Bank for information on four different accounts associated with appellant and his business. From the information recovered, the investigating officers discovered that myfreecams.com, the porn site that appellant arranged for the women and minors to use,

had deposited in excess of \$1,000 into the business checking account of Jones Accounting Services. Furthermore, it was established that appellant had integrated all activities, both lawful and unlawful, into the business entity by executing checks to the women and minors compensating them for their online sexual activities from the Jones Accounting Services account.

{¶ 16} On April 19, 2012, following this extensive investigation, appellant was indicted on one count of engaging in a pattern of corrupt activity with a specification, in violation of R.C. 2923.32(A)(1)(B)(1), a felony of the first degree. Appellant waived his right to a trial by jury and elected a bench trial. On September 4, 2012, appellant was found guilty. On November 16, 2012, appellant was sentenced to a term of incarceration of eight years. This appeal ensued.

{¶ 17} In the first assignment of error, appellant asserts that the verdict was not supported by sufficient evidence. Whether the evidence is legally sufficient to sustain a verdict is a question of law which considers whether the evidence is legally adequate to support a verdict as to all elements of the crime. *State v. Thompkins*, 75 Ohio St.3d 558, 664 N.E.2d 926 (1996). In reviewing the record for sufficiency, the relevant inquiry is whether, after reviewing the evidence in a light most favorable to the prosecution, a rational trier of fact could have found the elements of the crime proven beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991).

{¶ 18} In the related second assignment of error, appellant maintains that the guilty verdict was against the manifest weight of the evidence. A manifest weight

challenge questions whether the state has met its burden of persuasion. In a bench trial, the trial court assumes the fact-finding function of the jury. Accordingly, to warrant reversal from a bench trial under a manifest weight of the evidence claim, the court of appeals must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine whether in resolving conflicts in evidence, the trial court clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *Cleveland v. Welms*, 169 Ohio App.3d 600, 2006-Ohio-6441, 863 N.E.2d 1125, ¶ 16 (8th Dist.), quoting *Thompkins* at 387.

{¶ 19} Appellant was convicted of violating R.C. 2923.32(A)(1)(B)(1), engaging in a pattern of corrupt activity with a specification. The statute provides, “[n]o person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity.”

{¶ 20} Our review of the record reveals a multitude of testimony and compelling evidence which amply support appellant’s disputed conviction. Appellant systematically and aggressively solicited people, including minor females, via Facebook to engage in online pornography to the enrichment of appellant. The record clearly reflects that appellant was aware of their minority status either through express statements made directly to appellant by the victims or through their age of minority being plainly visible on their Facebook profiles.

{¶ 21} While appellant contends that appellee failed to establish the existence of a business enterprise, we are not persuaded. The record of evidence reflects that appellant had an accounting business through which he attempted to conceal and operate an additional unlawful pornographic business.

{¶ 22} A search of appellant's accounting firm revealed that the employment forms for the female minors who he solicited to partake in his online porn offerings listed Jones Accounting as their employer. Again, they performed no work connected to the legitimate accounting portion of the business.

{¶ 23} The bank records of appellant's firm clearly reflect that appellant had unlawfully integrated his online porn activity with his accounting enterprise. For example, appellant arranged for the pornographic website, myfreecams.com, to deposit revenue derived from people viewing the online porn into the checking account of Jones Accounting. Appellant also executed checks from the Jones Accounting's checking account paying those who he recruited to perform sexual activities online.

{¶ 24} This court has thoroughly considered the record of evidence in this matter. We find that the state presented ample evidence from which a rational trier of fact could have found appellant guilty beyond a reasonable doubt. Further, the record contains no indicia whatsoever from which this court can say that the trial court clearly lost its way or created a manifest miscarriage of justice in convicting appellant.

{¶ 25} Based on the foregoing, appellant's first and second assignments of error are found not well-taken. The judgment of the Wood County Court of Common Pleas is hereby affirmed. The costs of this appeal are assessed to appellant pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See also 6th Dist.Loc.App.R. 4.

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, P.J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.