

[Cite as *State v. Snyder*, 2011-Ohio-1062.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 94755**

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**AMY E. SNYDER (a.k.a. WRIGHT)**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
**REVERSED, CONVICTION VACATED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-522973

**BEFORE:** S. Gallagher, J., Stewart, P.J., and Celebrezze, J.

**RELEASED AND JOURNALIZED:** March 10, 2011

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SEAN C. GALLAGHER, J.:

{¶ 1} Appellant Amy Snyder appeals her conviction on two counts of endangering children and one count of domestic violence. For the reasons stated herein, we reverse and vacate Snyder’s conviction on these counts.

{¶ 2} Snyder was indicted in a seven-count indictment containing charges of felonious assault, endangering children, and domestic violence. The case proceeded to a bench trial.

{¶ 3} The charges arose from an incident that occurred in March 2009 in which Snyder’s husband disciplined her two-year-old daughter (“the child”) for a potty-training accident. The incident was discovered several days later when the child’s grandmother

noticed bruising on the child while changing her. The bruising appeared on the child's buttocks, along her spine, and on her forehead. The child was taken to the hospital and examined, but was not treated for any injuries. When the grandmother spoke to Snyder, Snyder indicated that her husband, Alex Snyder ("Alex"), had spanked the child and that Snyder was home when the spanking occurred.

{¶ 4} Snyder is the mother of the child. Alex was the child's stepfather. Subsequent to the charges in this action, Snyder divorced Alex.

{¶ 5} Alex testified that the child was rarely disciplined. He stated that he and Snyder usually would discipline the child by having her stand in the corner or sit in her bedroom. He stated he had disciplined the child once by a spanking, and that he and Snyder were both involved in the discipline.

{¶ 6} The spanking occurred after the child had accidentally wet herself, despite being potty-trained. Alex claimed that he spanked the child with the palm of his hand a couple of times and then took the child to the bathroom. Snyder was in another room when this occurred. Alex testified that he let Snyder know what happened, and Snyder then took the child to the bathroom and "swatted her on the butt" a few times with her hand. After red marks appeared on the child, Alex and Snyder had a discussion in which Snyder indicated concern for the situation and expressed this was "the last time" they would physically discipline the child and they needed to "find a different way."

{¶ 7} Within a few days of the incident, Alex recorded a conversation of Snyder scolding the child for "misbehaving a lot" and not listening to her. In the course of

reprimanding the child, Snyder made reference to the child's complaining about her bruises.

{¶ 8} Alex told a police detective that the situation got out of hand, that the physical discipline was quite extensive, and that Snyder was involved. Alex stated he did not realize the extent of the bruising that was caused until he was shown pictures by the detective. During the time Alex was being questioned by police, he sent a text to Snyder telling her to say "she didn't see what happened and that she was not involved." He told her this because he did not want Snyder to lose her nursing license for getting into trouble with the law. Despite this text, Snyder did provide a statement detailing what occurred.

{¶ 9} Detective Jim Reasor of the Broadview Heights Police Department testified that he photographed the multicolored bruising on the child's buttocks, on her spine on the lower back, and on her forehead. The photographs introduced into evidence reflect excessive bruising to the child. The medical records that were introduced also indicated the child had "excessive bruising."

{¶ 10} When the detective asked Snyder if she contributed to the bruising with any physical punishment, Snyder's response was that she does physically punish her child, but that she "doesn't leave bruises." When asked about the incident in question, Snyder told the detective that she could "hear Alex beating the living s\*\*\* out of [the child]" but that she did not intervene and that she was fearful of Alex. When shown the photographs of

the child's bruises, Snyder appeared surprised and emotional. The detective believed Snyder's statement was honest and forthcoming.

{¶ 11} In her police statement, Snyder stated she could hear Alex spanking the child's buttocks hard, that the child's buttocks were red afterward, and that Snyder was upset and stern with Alex following the incident. Snyder also admitted in her statement that she has spanked her child, but claimed she has never caused a bruise. She indicated that she promised her daughter "no one will touch her again."

{¶ 12} The trial court found Snyder guilty of endangering children in violation of R.C. 2919.22(A), a felony of the third degree; endangering children in violation of R.C. 2919.22(B)(1), a felony of the second degree; and domestic violence in violation of R.C. 2919.25(A), a misdemeanor of the first degree. She was found not guilty of the remaining charges. The trial court sentenced Snyder to three years of community control sanctions.

{¶ 13} Snyder filed this appeal raising one assignment of error that claims "the evidence is insufficient to sustain the convictions \* \* \* where the appellant did not violate a duty of care, was not the perpetrator of the punishment nor complicit in the discipline used upon the child."

{¶ 14} When an appellate court reviews a claim of insufficient evidence, "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.'" *State v. Leonard*, 104 Ohio St.3d 54,

2004-Ohio-6235, 818 N.E.2d 229, ¶ 77, quoting *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus. The weight to be given the evidence and the credibility of the witnesses are primarily for the trier of fact. *State v. Tenace*, 109 Ohio St.3d 255, 2006-Ohio-2417, 847 N.E.2d 386, ¶ 37.

{¶ 15} With this standard in mind, we shall review the endangering children and domestic violence offenses of which Snyder was convicted. We begin with a review of the endangering children offenses.

{¶ 16} R.C. 2919.22(A) provides as follows: “No person, who is the parent \* \* \* of a child under eighteen years of age \* \* \* shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. \* \* \*.” A “substantial risk” is defined in R.C. 2901.01(H) as “a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.” A violation of this section is a felony of the third degree if the child suffers serious physical harm. R.C. 2919.22(E)(2)(c).

{¶ 17} R.C. 2919.22(B)(1) provides as follows: “No person shall do any of the following to a child under eighteen years of age: \* \* \* (1) Abuse the child[.]” A violation of this section is a felony of the second degree if the child suffers serious physical harm. R.C. 2919.22(E)(2)(d). “Child abuse” is defined as “an act which inflicts serious physical harm or creates a substantial risk of serious harm to the physical health or safety of the child.” *State v. Ivey* (1994), 98 Ohio App.3d 249, 257, 648 N.E.2d 519. “In making the determination of abuse, the trial court must look at the

circumstances giving rise to the harm to the child, the disciplinary measures employed by the parent, the child's past history, and any other potential relevant factors." *Id.* at 258.

{¶ 18} The evidence in this case reflects that the child was spanked as a disciplinary measure for a potty-training accident. We need not address the social arguments over the viability of spanking as a means of parental discipline. Rather, our focus is on the legal elements of the offenses in question in light of Snyder's conduct.

{¶ 19} The evidence suggests that Alex was the primary actor, that the situation got out of hand, and that the physical discipline was excessive. Although Snyder had a duty to care, protect, and support her child, and may also have participated in the discipline, there was insufficient evidence to establish that Snyder created a substantial risk to the health or safety of the child. While there was evidence that the child sustained "excessive bruising," there was no evidence of serious physical harm to the child. She was examined at the hospital; however, no treatment was administered. We note that other courts have found similar and even more severe punishment to the case at hand does not constitute serious physical harm. See *In re J.L.*, 176 Ohio App.3d 186, 2008-Ohio-1488, 891 N.E.2d 778, ¶ 44; *Ivey*, 98 Ohio App.3d 249.

{¶ 20} Further, the record establishes that the child's bruising was the result of a single disciplinary incident arising from the child's potty-training accident. Snyder reprimanded Alex immediately after realizing the child had been bruised by the spanking. While the child sustained excessive bruising, there is a lack of evidence to establish a

“substantial risk” or “strong possibility” that the health or safety of the child was at risk or that the child was abused.

{¶ 21} Upon viewing the evidence in a light most favorable to the prosecution, we cannot say that any rational trier of fact could have found that the essential elements of the crime for endangering children were proven beyond a reasonable doubt. While we do not condone the use of excessive punishment against any child, the conduct of Snyder did not rise to the level of endangering children. Further, we note that Alex, the stepfather, was prosecuted, convicted, and jailed for his conduct related to the injuries of the minor child in this case.

{¶ 22} Next, we consider the domestic violence offense. R.C. 2919.25(A) provides as follows: “No person shall knowingly cause or attempt to cause physical harm to a family or household member.” Except as otherwise provided, a violation of this section is a misdemeanor of the first degree. R.C. 2919.25(D)(2).

{¶ 23} The Ohio Supreme Court has recognized that the domestic violence statute does not prevent “proper and reasonable parental discipline” of a child. *State v. Suchomski* (1991), 58 Ohio St.3d 74, 75, 567 N.E.2d 1304. “Clearly parents are entitled to utilize disciplinary measures for their children, however, such discipline must not be of such gravity that it becomes unreasonable in light of the underlying cause.” *Ivey*, 98 Ohio App.3d at 258. A determination as to whether particular conduct constitutes proper and reasonable parental discipline must be made from the totality of the



circumstances in the case. *State v. Adaranijo*, 153 Ohio App.3d 266, 792 N.E.2d 1138, ¶ 13-14.

{¶ 24} In this case, the record reflects that the child was being disciplined by a spanking from her stepfather for a potty-training accident. Although there was some evidence that Snyder “swatted” the child on her buttocks, Snyder asserted she has never hit the child hard enough to cause bruising. The evidence suggests that the spanking by Alex resulted in the bruising to the child. Following the incident, Snyder firmly told Alex that nobody was going to lay a hand on the child again. There was no evidence of substantial harm to the child. Snyder was emotional when she was shown the photographs of her child’s bruising, and she appeared to be honest and forthcoming in her statement to the detective. In view of the facts and circumstances in this case, we find there was insufficient evidence for any rational trier of fact to conclude Snyder’s actions were other than proper and reasonable. Upon our review, we find the evidence was insufficient to convict Snyder of domestic violence.<sup>1</sup>

{¶ 25} Snyder’s sole assignment of error is sustained. We reverse and vacate her conviction for the child endangerment counts and for domestic violence.

Judgment reversed; conviction vacated.

It is ordered that appellant recover from appellee costs herein taxed.

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<sup>1</sup> We are cognizant of the fact that Snyder possesses a nursing license. Concerns, if any, about her ongoing contact with patients relative to that license can be addressed by the licensing authority. Further, the Cuyahoga County Department of Children and Family Services can make any appropriate referrals for outside counseling where appropriate.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, JUDGE

MELODY J. STEWART, P.J., and  
FRANK D. CELEBREZZE, JR., J., CONCUR