

[Cite as *State v. Stanton*, 2015-Ohio-3031.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102021

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

RONALD STANTON, JR.

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-14-584957-A

BEFORE: Boyle, J., McCormack, P.J., and Stewart, J.

RELEASED AND JOURNALIZED: July 30, 2015

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MARY J. BOYLE, J.:

{¶1} Defendant-appellant, Ronald Stanton, Jr., appeals his robbery and assault convictions. He raises two assignments of error for our review:

1. The jury's verdict was based on insufficient evidence.
2. The jury's verdict was against the manifest weight of the evidence.

{¶2} Finding no merit to his appeal, we affirm.

Procedural History and Facts

{¶3} In May 2014, Stanton was indicted on five counts: Count 1, robbery in violation of R.C. 2911.02(A)(2); Count 2, disrupting public service in violation of R.C. 2909.04(A)(1); Count 3, aggravated burglary in violation of R.C. 2911.11(A)(1); Count 4, robbery in violation of R.C. 2911.02(A)(2); and Count 5, assault in violation of R.C. 2903.13(A). Counts 1 and 2 stemmed from incidents that allegedly occurred on April 23, 2014. Counts 3, 4, and 5 stemmed from events that allegedly took place on April 27, 2014. Stanton waived his right to a jury trial, and the case was tried to the bench where the following facts were presented.

{¶4} Elma Sanders ("Sanders"), Stanton's mother, testified that she receives disability compensation and has several medical issues, including congestive heart failure, hypertension, kidney disease, and diabetes. She stated that she has also had a stroke and recently had a kidney transplant.

{¶5} Sanders testified that in April 2014, she was letting Stanton stay with her because he was homeless; he had been staying with her “off and on” for about “a year and a half.”

{¶6} On April 23, 2014, around 10:00 or 10:30 a.m., Stanton asked Sanders for \$40. Sanders said that she had told Stanton that she was supposed to begin receiving her “Social Security pension” on April 23, and that she would give him the \$40 that day, but she did not receive it until about a month later. Stanton sat down in a chair across from Sanders and said, “well, what are you going to do?” Sanders replied, “nothing.”

{¶7} Sanders said that Stanton then got her purse and took her debit card. Sanders said that she had let Stanton use her debit card in the past, but only with her permission. Sanders told Stanton to give her debit card and “door keys” back to her. Sanders stated that she was holding her cell phone in her hand. Stanton “twisted” her hand until she let go of her cell phone, and he took her cell phone right out of her hand and walked out the door. She experienced “a little” pain from it. Although she had given him permission to use her phone and keys in the past, she had not done so that day.

Sanders told Stanton that she was going to call the police if he did not give them back to her.

{¶8} After Stanton left, Sanders called the police with her land-line phone. She also called her bank and cancelled her debit card. Sanders also had the locks changed on her apartment.

{¶9} Later in the evening on April 23, Sanders said that Stanton came home around 6:00 p.m. and gave her debit card and cell phone back to her, but not her keys. Stanton told Sanders that her debit card did not work. Sanders said there was no money in her account because she had not received her disability check yet. Sanders allowed Stanton to stay at her house that evening because “he was acting normal.”

{¶10} Sanders testified that a few days later, on April 27, Stanton got upset with Sanders because he said that Sanders used his food stamp card. Sanders denied using it. Sanders said that Stanton “started getting out of control.” Sanders did not believe that she owed Stanton any money. Sanders explained that she would use Stanton’s food stamp card to buy groceries and give Stanton the money from it so that he could buy clothes. But she said she had not done so on this occasion.

{¶11} Sanders testified that Stanton was yelling at her and using “foul language.” He told her that his mother was “dead.” Sanders was sitting on the couch when Stanton came toward her and grabbed her glasses off of her face. He then grabbed her cell phone, which was on the couch next to her. He also unplugged the land-line phone and threw it in the bedroom. Sanders said that Stanton then “raised his fists” to punch her, but she blocked his punch with her hand. She said her thumb was swollen for two weeks. Sanders testified that Stanton “kept punching” her on her right side. Sanders did not want to get punched on her left side because that is “where [she] had the kidney transplant.” Sanders said that Stanton hit her “about three times.” Sanders said the police took photos, but she did not have any visible injuries.

{¶12} Sanders stated that Stanton's ex-girlfriend, Latoya Gainer, was in the apartment that day. Sanders said that Gainer attempted to stop Stanton from hitting Sanders, and Stanton "knocked her down and he started beating up on her." According to Sanders, Stanton punched Gainer on her "face, stomach, side, everywhere."

{¶13} When Stanton was beating Gainer, Sanders left the apartment to try to find help, but she could not find anyone. Sanders could hear Gainer screaming, so she went back in her apartment because she was worried that Stanton would really hurt Gainer. But when Sanders was going back in, she saw Stanton leaving with her wallet, cell phone, and a new set of keys. Sanders had not given him permission to take any of those items. After Stanton left, Sanders plugged the land line back in and called the police.

{¶14} Latoya Gainer testified that she and Stanton had lived together for nine years. Gainer stated that on April 27, 2014, she was at Sanders's house. Gainer said that she was in the bedroom when she heard Stanton arguing with Sanders in the other room. Gainer got up and told Stanton to stop being disrespectful to his mother. Gainer said that Stanton walked toward Sanders to give Sanders her keys, and "he hit her on her arm and leg and her head" while Sanders was sitting on the couch. Gainer said that Sanders fell.

{¶15} When Gainer saw Sanders falling, Gainer pushed Stanton. Gainer said, "dude, you just hit your mother." Gainer attempted to help Sanders, but at that point, Stanton "turned around and hit" Gainer. Gainer said that Stanton hit her with a closed

fist all over her body, on her head, her arms, her side, “just anywhere he could,” for about ten minutes.

{¶16} Gainer testified that once Stanton stopped hitting her, he grabbed Sanders’s wallet and phone and left. Before he did, he also asked Gainer if she had her phone on her, and she told him “no.” After Stanton left, Gainer put the land-line phone back together, and she and Sanders called 911.

{¶17} Gainer said that she refused to go to the hospital in an ambulance because she did not want to leave Sanders by herself. But as soon as Sanders’s sister arrived, Gainer went to the hospital. She said that she was “covered with bruises and scrapes,” but “nothing major.”

{¶18} Officer David Reynolds of the Cuyahoga Metropolitan Housing Authority (“CMHA”), division of police, testified that he responded to a report of domestic disturbance on April 23, 2014, at Sanders’s apartment. He interviewed Sanders. He did not see any injuries on Sanders. Based on what Sanders told him, charges were filed against Stanton. Reynolds did not take any photos that day.

{¶19} Officer Cornell Grimes of the CMHA police department testified that he responded to Sanders’s apartment on April 27, 2014, as a result of a domestic violence situation. He met with Sanders and Gainer. He said that he observed injuries to Sanders and took photos of the injuries, which he identified in court. He stated that the left side of Sanders’s face had “swelling and puffiness.” Sanders advised him of other

injuries that she had, but they were not visible. He did not observe any injuries on Gainer. He did not know where Stanton was, so he did not make any arrests that day.

{¶20} Police officer Ali Sabeiha of the CMHA police department testified that on April 27, 2014, around 10:30 p.m., he responded to a broadcast call that a male, who entered Sanders’s apartment building, was “on the CMHA banned list.” He explained that the people on this list are not permitted on CMHA property. Officer Sabeiha said that they were looking for Stanton. Police were advised that he was in Sanders’s apartment. Officer Sabeiha knocked on Sanders’s door, but no one answered. He received permission to “make entry into the apartment.” He went inside the apartment, and Stanton was sleeping on the couch. Stanton told Officer Sabeiha that he did not know whose apartment it was.

{¶21} At the close of the state’s case, Stanton moved for a Crim.R. 29 acquittal that the trial court granted with respect to Count 2 (disrupting public services) and Count 3 (aggravated burglary), and denied it with respect to Count 1 (robbery on April 23, 2014), Count 4 (robbery on April 27, 2014), and Count 5 (assault regarding Gainer).

{¶22} The trial court found Stanton guilty of both robbery counts and assault. The trial court sentenced Stanton to four years for each robbery count, to be served concurrent to each other, and to time served for the assault charge. The trial court further notified Stanton that he would be subject to three years of mandatory postrelease control. It is from this judgment that Stanton appeals.

Sufficient Evidence

{¶23} In his first assignment of error, Stanton maintains that the state failed to present evidence of his two robbery convictions — one stemming from the events that took place on April 23, 2014, and one stemming from the events that took place on April 27, 2014.

{¶24} “[S]ufficiency’ is a term of art meaning that legal standard which is applied to determine whether the case may go to the jury or whether the evidence is legally sufficient to support the jury verdict as a matter of law.” *State v. Thompkins*, 78 Ohio St.3d 380, 386, 678 N.E.2d 541 (1997), citing *Black’s Law Dictionary* 1433 (6th Ed.1990). When an appellate court reviews a record upon a sufficiency challenge, “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. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

{¶25} In both instances, Stanton was convicted of robbery under R.C. 2911.02(A)(2). This provision provides that “[n]o person, in attempting or committing a theft offense or in fleeing immediately after the attempt or offense, shall * * * [i]nflict, attempt to inflict, or threaten to inflict physical harm on another.”

{¶26} Regarding the April 23 incident, Stanton argues that there was no evidence of theft. He contends that he regularly used his mother’s debit card, keys, and cell phone, without having to ask permission.

{¶27} Theft under R.C. 2913.02 is defined in relevant part as “[n]o person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property * * * [w]ithout the consent of the owner or person authorized to give consent[.]”

{¶28} While it may be true that at other times Sanders permitted Stanton to use her property without asking permission, that was not the case on this occasion. The evidence established that on this particular occasion, Stanton had been asking Sanders for \$40. When Sanders told him that she did not have it, he got her purse and took her debit card. Sanders told him to give her debit card back to her, but he refused. Stanton also forced Sanders’s cell phone out of her hand. Sanders told Stanton that she was going to call the police. Sanders testified that she even cancelled that card. When Stanton returned later that day, he threw it at her, saying that it did not work. Sanders also testified that she had her locks changed to her apartment. This evidence is sufficient to establish that Sanders did not give Stanton permission to take any of her property that day.

{¶29} Stanton further argues that there was no evidence that he physically harmed his mother on April 23 because there were no signs of visible injuries. His argument is without merit. Sanders testified that when Stanton was attempting to get her cell phone out of her hand, he twisted her hand until she let go of the phone. Sanders said that it hurt “a little” when Stanton twisted her hand. Physical harm to persons is defined as “any injury, illness, or other physiological impairment, regardless of its gravity or

duration.” R.C. 2901.01(A)(3). This evidence is sufficient to establish that Stanton suffered physical harm when Stanton twisted her hand until she dropped her cell phone.

{¶30} Regarding the April 27 incident, Stanton argues that there was no evidence of theft — again arguing that it was normal routine for him to use his mother’s debit card, keys, and cell phone. That may have been the case, but, clearly, not in these circumstances.

{¶31} The state established that Stanton was angry with his mother, thinking that she took his food-stamp card. After Stanton proceeded to hit Sanders and Gainer several times, Gainer testified that she saw Stanton take his mother’s wallet and cell phone, and leave the house. This evidence is sufficient to establish the elements of theft.

{¶32} Accordingly, Stanton’s first assignment of error is overruled.

Manifest Weight of the Evidence

{¶33} In his second assignment of error, Stanton argues that his convictions were against the manifest weight of the evidence.

{¶34} Unlike sufficiency of the evidence, a challenge to the manifest weight of the evidence attacks the credibility of the evidence presented. *Thompkins*, 78 Ohio St.3d at 387, 678 N.E.2d 541. Because it is a broader review, a reviewing court may determine that a judgment of a trial court is sustained by sufficient evidence, but nevertheless conclude that the judgment is against the weight of the evidence. *Id.*, citing *State v. Robinson*, 162 Ohio St. 486, 487, 124 N.E.2d 148 (1955).

{¶35} In determining whether a conviction is against the manifest weight of the evidence, the court of appeals functions as a “thirteenth juror.” *Id.* In doing so, it 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 jury 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, quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983). Reversing a conviction as being against the manifest weight of the evidence and ordering a new trial should be reserved for only in the “exceptional case in which the evidence weighs heavily against the conviction.” *Id.*

{¶36} In this assignment of error, Stanton incorporates the arguments that he made in his first assignment of error, which we already overruled. Stanton further argues that the pictures taken of Sanders’s injuries contradict the fact that any physical harm occurred because there were no visible injuries. He further maintains that because no medical help was necessary, that also contradicts the fact that there was physical harm. We disagree. Again, any degree of physical harm is sufficient to establish physical harm. R.C. 2901.01(A)(3). It is irrelevant that the photos do not show visible injury or that the victims did not need medical care.

{¶37} Accordingly, after review, we cannot say that the factfinder clearly lost its way and created such a manifest miscarriage of justice that Stanton’s convictions must be reversed and a new trial ordered.

{¶38} Stanton's second assignment of error is overruled.

{¶39} Judgment affirmed.

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

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. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

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

MARY J. BOYLE, JUDGE

TIM McCORMACK, P.J., and
MELODY J. STEWART, J., CONCUR