

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY**

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

CHARL W. BOSMAN,

Defendant-Appellant.

CASE NO. 2025-G-0047

Criminal Appeal from the
Court of Common Pleas

Trial Court No. 2024 C 000188

OPINION AND JUDGMENT ENTRY

Decided: September 8, 2026

Judgment: Affirmed

James R. Flaiz, Geauga County Prosecutor, and *Nicholas A. Burling*, Assistant Prosecutor, Courthouse Annex, 231 Main Street, Suite 3A, Chardon, OH 44024 (For Plaintiff-Appellee).

Joseph C. Patituce, Patituce & Associates, L.L.C., 16855 Foltz Industrial Parkway, Strongsville, OH 44149 (For Defendant-Appellant).

MATT LYNCH, P.J.

{¶1} Appellant, Charl W. Bosman, appeals the judgment of the Geauga County Court of Common Pleas sentencing him to a total indefinite term of imprisonment of 18 to 23 years after he was found guilty by a jury of two counts of rape and two counts of gross sexual imposition (“GSI”) of a minor less than 13 years of age. After careful consideration of Bosman’s assignments of error, as well as the record and the pertinent law, we affirm the judgment of the trial court.

{¶2} On December 23, 2024, a Geauga County grand jury indicted Bosman on 12 counts for offenses against his family members; specifically, his former spouse

("Wife"), his two daughters ("Daughter 1" d.o.b. Dec. 31, 2009, and "Daughter 2" d.o.b. March 10, 2011), and his two sons ("Son 1" d.o.b. Oct. 18, 2013, and "Son 2" d.o.b. April 28, 2015). The counts are as follows:

Counts 1 and 2: Rape of Wife, first-degree felonies, in violation of R.C. 2907.02(A)(2);

Count 3: Rape of a person less than 13 years of age, Daughter 1, a first-degree felony, in violation of R.C. 2907.02(A)(1)(b);

Count 4: Rape of Daughter 1, a first-degree felony, in violation of R.C. 2907.02(A)(2);

Count 5: GSI of a person less than 13 years of age, Daughter 1, a third-degree felony, in violation of R.C. 2907.05(A)(4);

Count 6: GSI of Daughter 1, a fourth-degree felony, in violation of R.C. 2907.05(A)(1);

Count 7: Rape of a person less than 13 years of age, Daughter 2, a first-degree felony, in violation of R.C. 2907.02(A)(1)(b);

Count 8: GSI of a person less than 13 years of age, Daughter 2, a third-degree felony, in violation of R.C. 2907.05(A)(4);

Count 9: Strangulation of Son 2, a fourth-degree felony, in violation of R.C. 2903.18(B)(3);

Count 10: Domestic Violence against Son 2, a first-degree misdemeanor, in violation of R.C. 2919.25(A);

Count 11: Strangulation of Son 1, a fourth-degree felony, in violation of R.C. 2903.18(B)(3); and

Count 12: Domestic Violence against Son 1, a first-degree misdemeanor, in violation of R.C. 2919.25(A).

{¶3} Bosman pleaded not guilty to the charges, and the matter proceeded to a jury trial on November 3, 2025.

The Jury Trial – the State’s Case-in-Chief

{¶4} The State presented as witnesses Wife, Daughter 1, Daughter 2, Son 1, Son 2, and expert Cody Tatum. The State also introduced into evidence text and email messages between Bosman and Wife.

{¶5} Wife testified the family moved to Chardon from Solon in 2021. Wife has a daughter from a previous marriage, “M.L.,” who lived with Wife, Bosman, and their four children. Bosman has a son from a prior marriage who has reached the age of majority, “A.B.,” who lived with them on alternate weekends. Bosman and Wife were married in 2009, and were divorced several months before the trial. Wife stated their marriage had issues, explaining that “[o]utside of dishonesty and manipulation, there were varying levels of abuse, both physical and sexual.”

{¶6} Wife further testified they went on a family vacation to Tennessee at the end of 2023. They returned home the day after Christmas. Several days later, Bosman attacked her after dinner while she was sitting on the couch using her laptop. The children were upstairs getting ready for bed. She recalled Bosman forced sexual intercourse, and Son 1 attempted to pull Bosman off of her.

{¶7} In January 2024, Bosman, an engineer, returned home from a work trip, and Wife made a family dinner. Wife described an incident that involved Bosman penetrating her with his hand and fingers while the family was seated at the dinner table. After, Bosman asked Wife if she was “going to give [him] pity sex?” He proceeded into the backyard, and Daughter 1 followed to feed the family dogs, where she found a vape pen. When Bosman shoved Daughter 1 against the wall, Wife told M.L. to call 911. Bosman repeatedly stated he wanted his gun before finally leaving the property.

{¶8} Wife read to the jury excerpts from the text and email messages between her and Bosman in which Wife reviewed the incidents with Bosman, and he acknowledged them and asked for forgiveness.

{¶9} Wife also described Bosman's interactions with the children. She explained Bosman would tuck the children in, and he had a habit of hiding in their beds "to mess" with them. Wife and Bosman had discussed that it was unhealthy for him to be in their beds, especially the girls, now that the children were older. One evening, Wife was looking for Bosman. He was in Daughter 2's bunk bed, lying on top of her. Wife also noticed some unusual behavior between Bosman and Daughter 1. He would "slap her butt" and comment, "she's looking more like you every day" and "gotta watch out for this one." Bosman would snuggle with their daughter under a blanket, and one time she noticed her rocking on Bosman's leg inappropriately. When Wife came near, he "moved back and pushed her over."

{¶10} Wife also noticed some concerning behaviors between Bosman and their sons. Bosman was the "disciplinarian" at home, and if their sons did not want to comply, "he would grab them by the neck and push them to where he wanted them to go [or] it was tickling until they couldn't breathe."

{¶11} Daughter 1 testified she saw Bosman assault her mother while they were eating dinner in January 2024. Her mom jumped up and Bosman pursued her. Daughter 1 "saw him trying to or sticking his hands in my mom's pants, and I knew that wasn't normal behavior, and I looked up and saw in her eyes, like fear and shock." After her dad stormed out, she went outside to take care of the family's dogs. She opened the door, and there was a vape and "some strange looking candy" on the step, which she picked

up and took inside to tell her mother. Bosman started rummaging through the garbage, and Wife came forward and told him “to either be honest or leave.” They were holding the phone for 911 because Bosman was attempting to get his gun, and then Bosman left.

{¶12} Daughter 1 also testified to unusual behaviors between Bosman and her siblings. Bosman would go into Daughter 2’s bunk bed and lay on top of her. She described an incident where Wife was looking for Bosman and he was in Daughter 2’s bed, lying on top of her. Daughter 1 further testified Bosman was very violent with her two younger brothers, “shoving them in the chest, leaving marks, which was common.” Bosman stopped spanking them “after my father was shown to be irrational and causing it for hurt and not teaching.”

{¶13} Daughter 1 told the jury that when she was around eleven years old, Bosman started making her uncomfortable. In one incident, they were in the main living room on the couch. Bosman was tickling her and then touching her “in places [she] didn’t appreciate.” He was on top of her, and “he made it look like a game multiple times, and then he was touching himself in his [genital] area and touching me.” She was twelve years old when Bosman began inserting his fingers and genitals into her genitals. She remembers this happened in 2023, before they went to Tennessee for Christmas.

{¶14} Daughter 2, in her testimony, corroborated the January 2024 family dinner incident. She also recalled an incident in which Bosman yelled at her two younger brothers. Bosman shoved one of them and he fell into an oil pan, which led to Bosman “screaming at him for making a mess.” Bosman would “stab his fingers into their chests.” She also observed Bosman snuggling Daughter 1 inappropriately under a blanket on the couch.

{¶15} Daughter 2 described an incident that occurred at bedtime when she was in her top bunk bed in the room she shared with Daughter 1. Bosman laid on top of her, put his hands underneath her shorts, and rubbed her vagina. This occurred more than once. He would also touch her breasts and squeeze them under her clothing. She was twelve years old at the time, and she remembered his genitals touching her thigh.

{¶16} Son 2, the youngest of the siblings, testified his sister found a vape and his dad grabbed it. The situation escalated into a big fight, and Bosman eventually left the house. This happened shortly before his tenth birthday. Son 2 described his relationship with Bosman as “bad,” because “he would abuse me every time he was mad at me or if I told my mom something that he did do.” Son 2 further testified Bosman would push him and Son 1 against the wall by their throats. “It would feel like suffocating,” and “it would also hurt on my throat because of the pressure.” Bosman would hit them “with the rod,” which was a cricket bat.

{¶17} Son 1 testified the last time Bosman was in their house was the night his sister found something and Bosman threw it in the trash. Bosman made him feel scared or hurt when he would take him and Son 2 by the neck and guide them upstairs and into their room “for the rod.” “It would feel kind of hard to breath and hurting” The rod was a cricket bat Bosman would use on their “bottom” to “drive the foolishness out of us.” He described pulling Bosman off of his mother one time on the couch: “I knew there was something wrong so I came over and grabbed him to wrestle him to get distracted, and I said that he should be productive, like how he tells us.”

{¶18} Prior to Tatum, the State’s expert, testifying, the court addressed defense counsel’s motion in limine to exclude the expert from testifying as to other acts evidence.

The State agreed it would discuss general topics, such as grooming, without any specific reference to the instant case or the specific allegations. The court agreed, granting the motion “in that manner.” Tatum then explained to the jury grooming and conditioning behaviors of sexual offenders of children and delayed disclosure and reporting of offenses by child victims.

{¶19} At the close of the State’s case-in-chief, defense counsel raised a Crim.R. 29 motion challenging the sufficiency of the evidence. The State conceded there was insufficient evidence on Count 4, rape, and Count 6, GSI, because Daughter 1 testified nothing happened once Bosman moved out of the home after the January 2024 incident. The court granted defense counsel’s motion as to Counts 4 and 6.

The Defense

{¶20} The defense presented the testimony of three witnesses: Bosman’s former spouse, “R.D.”; their son, “A.B.”; and Bosman.

{¶21} R.D. testified she was married to Bosman between 2005 to 2008, and they had A.B. in 2007. R.D. never observed Bosman commit any acts of physical or sexual abuse. She has never seen Bosman and Wife interact, and never spent time in their home.

{¶22} A.B. testified his dad had never been violent towards him, and he never saw Bosman act violently or sexually towards his half-siblings.

{¶23} Bosman testified he moved out of the house in January 2023. He denied raping Wife, sexually abusing his daughters, and strangling or engaging in violent behavior towards his sons. He denied the incidents and stated his family lied, they fabricated the incidents, and his son was “a fake” when he started crying while testifying.

Bosman explained he spanked the boys with a cricket bat because he did not want them to associate an act of punishment with his hand. He explained he reacted to the discovery of his vape pen from fear. His apologies in the text messages and emails were not admissions of the incidents; rather, he was hoping to “work things out,” and he was “emotional.” He “was trying to reconcile with the family, and [he] unfortunately wrote things that were not true.”

Jury Verdict Forms

{¶24} In relevant part to Bosman’s assigned error, the jury verdict forms for Count 5 and Count 8 read as follows:

Verdict: Count 5 – GROSS SEXUAL IMPOSITION OF [DAUGHTER 1],
April 2021 to December 30, 2022
We, the Jury, find the Defendant, Charl W. Bosman . . .
Of GROSS SEXUAL IMPOSITION as charged in Count 5 in the indictment.

Verdict: Count 8 – GROSS SEXUAL IMPOSITION OF [DAUGHTER 2],
April 2021 to January 2024
We, the Jury, find the Defendant, Charl W. Bosman . . .
OF GROSS SEXUAL IMPOSITION as charged in Count 8 in the Indictment.

{¶25} The Jury returned guilty verdicts on Counts 1 and 2, rape of Wife; Count 5, GSI of Daughter 1; and Count 8, GSI of Daughter 2. The jury returned not guilty verdicts on Counts 3, 7, 9, 10, 11, and 12.

Sentencing

{¶26} At sentencing, after hearing statements from the State and defense counsel, Bosman’s father and mother, and A.B., the court inquired if Bosman wished to make a statement. Bosman declined, stating, “Your Honor, due to Counsel, I’m going to decline to say something, but I appreciate the opportunity, Your Honor.”

{¶27} The court, in considering the sentencing factors set forth in R.C. 2929.11 and 2929.12, found Bosman’s offenses more serious because of his familial relationship with the victims and the age of the victims, especially the two minors. The court did not find any of the less serious factors applied. The court further found, in its consideration of the recidivism factors, “there is no demonstration of genuine remorse in this case, inasmuch as Mr. Bosman has not made any statement on his own behalf.” The court also noted Bosman has no criminal history.

{¶28} The court sentenced Bosman on Counts 1 and 2, rape, to 2 concurrent, mandatory terms of imprisonment of a minimum of 10 years up to a maximum of 15 years; and on Counts 5 and 8, GSI, to 2 consecutive, 48-month terms of imprisonment; for a total term of imprisonment of 18 to 23 years. The court also found Bosman to be a Tier II Sex Offender and notified him of the registration and notification requirements.

{¶29} Bosman timely appealed and raises four assignments of error for our review:

{¶30} “[1.] Appellant was denied the effective assistance of counsel as guaranteed by both our federal and state constitutions.

{¶31} “[2.] Appellant was denied his right to a fair trial when the state introduced improper other acts evidence in violation of both federal and state constitutions and Evidence Rule 404(B).

{¶32} “[3.] The trial court violated appellant’s right to remain silent, in violation of both of our federal and state constitutions, when it relied upon that silence as a basis for imposing a sentence in that case.

{¶33} “[4.] The verdict forms signed and returned by the jury, in counts five and eight, were insufficient to maintain a felony of the third degree.”

{¶34} We address Bosman’s assignments of error out of turn for ease of discussion.

Other Acts Evidence

{¶35} In his second assignment of error, Bosman contends it was plain error for the trial court to admit “other acts” evidence because he was “tried on the theory that he is the type of person who has the propensity to engage in emotional, physical, sexual abuse and that because of that propensity he committed the acts he is accused of.” He contends the testimony from Wife and his children describing Bosman as violent, their fear of living with him, their fear of his interactions with their mother, and how he subjected them to domestic violence and/or strangulation at least ten different times was improper other acts evidence.

{¶36} “The admissibility of other acts evidence under Evid.R. 404(B) is a question of law that we review de novo.” *State v. Worley*, 2021-Ohio-2207, ¶ 117. “But the trial court’s weighing of the probative value of admissible evidence against the danger of unfair prejudice to the defendant pursuant to Evid.R. 403(A) involves an exercise of judgment and will be reviewed for an abuse of discretion.” *Id.* An abuse of discretion is the trial court’s “failure to exercise sound, reasonable, and legal decision-making.” *State v. Beechler*, 2010-Ohio-1900, ¶ 62 (2d Dist.), quoting *Black’s Law Dictionary* (8th Ed. 2004).

{¶37} Evid.R. 404(B), “Other Crimes, Wrongs or Acts,” provides:

(1) *Prohibited Uses*. Evidence of any other crime, wrong or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted Uses; Notice*. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. The proponent of evidence to be offered under this rule shall:

(a) provide reasonable notice of any such evidence the proponent intends to introduce at trial so that an opposing party may have a fair opportunity to meet it;

(b) articulate in the notice the permitted purpose for which the proponent intends to offer the evidence, and the reasoning that supports the purpose; and

(c) do so in writing in advance of trial, or in any form during trial if the court, for good cause, excuses lack of pretrial notice.

{¶38} “This type of evidence is commonly referred to as ‘propensity evidence’ because its purpose is to demonstrate that the accused has a propensity or proclivity to commit the crime in question.” *State v. Echols*, 2024-Ohio-5088, ¶ 21, quoting *State v. Hartman*, 2020-Ohio-4440, ¶ 21. Evidence of any other crime, wrong, or act, may be admitted, however, for a purpose other than showing a person's propensity to commit a crime. Evid.R. 404(B)(2).

{¶39} In *Echols*, the Supreme Court of Ohio explained, “by Evid.R. 404(B)'s own terms, evidence must meet two criteria to fall within [the] scope [of other acts evidence]. The evidence must be evidence of a ‘crime, wrong, or act.’ Evid.R. 404(B)(1). And it must not be evidence that goes directly to the charged crime itself—rather, it must be evidence of an ‘other crime, wrong or act’ . . . , *id.*; see also Leonard, *The New Wigmore: A Treatise on Evidence: Evidence of Other Misconduct and Similar Events*, § 4.1, at 210-211 (2d Ed. 2019) (generally describing evidence to which Evid.R. 404(B) and its state

and federal analogues applies as evidence of ‘uncharged misconduct’).” (Emphasis sic.) *Echols* at ¶ 24.

{¶40} “Additionally, evidence of other crimes may be presented when they are so blended or connected with the one on trial that proof of one incidentally involves the other, or explains the circumstances thereof, or tends logically to prove any element of the crime charged.” *State v. Thomas*, 2025-Ohio-1321, ¶ 18 (3d Dist.), *appeal not accepted*, 2025-Ohio-2749; *see also State v. Handshoe*, 2023-Ohio-3205, ¶ 22 (3d Dist.) (“Evid.R. 404(B) applies to the admission of ‘other acts’ extrinsic to the charged offense and not those acts intrinsic to the offense [being tried] because the latter are outside the purview of Evid.R. 404(B)”).

{¶41} Bosman’s argument fails at the outset because he has not identified any “other acts” evidence. A review of the testimony by his former spouse and children that he identifies as “other acts” evidence is testimony that directly relates to the crimes of rape, GSI, strangulation, and domestic violence as charged in the indictment. The testimony was not offered to show he had a propensity to commit these types of acts, but that he did commit the acts. *See, e.g., State v. Moore*, 2025-Ohio-712, ¶ 76 (3d Dist.) (the evidence of the appellant’s use of sex toys and sexual contact was not evidence of other crimes, wrongs, or acts; it was direct testimonial evidence of the charged offenses); *Thomas* at ¶ 20-27 (finding text messages were relevant, direct evidence of the crimes charged and did not fall under an Evid.R. 404(B) other acts analysis); *State v. Sanabria*, 2025-Ohio-5747, ¶ 24 (5th Dist.) (“the challenged behavior happened during the [commission of the offense], was part and parcel of the relevant facts, and was direct evidence or ‘res gestae’ of the crime charged”).

{¶42} Because Bosman has failed to challenge any “other acts” evidence, his second assignment of error is without merit.

Right to Remain Silent

{¶43} In his third assignment of error, Bosman contends the trial court used his right to remain silent against him at the sentencing hearing when considering whether he was likely to reoffend. The State concedes the trial court’s consideration of Bosman’s silence at sentencing as evidence of lack of remorse was improper, but argues it does not rise to the level of plain error.

{¶44} Although an “appellate court’s jurisdiction to review sentencing factors is limited under R.C. 2953.08(G)(2)(b),” an “appellate court is not prohibited from reviewing a sentence ‘when the claim is that the sentence was improperly imposed based on impermissible considerations.’” *State v. Brunson*, 2022-Ohio-4299, ¶ 69, quoting *State v. Bryant*, 2022-Ohio-1878, ¶ 22. As in *Brunson*, Bosman’s challenge to the trial court’s consideration of his constitutional right to remain silent in its evaluation of his lack of remorse, a sentencing factor under R.C. 2929.12(D)(5), falls under the Supreme Court’s definition of “otherwise contrary to law” and, thus, may be reviewed on appeal. *Id.* at ¶ 70.

{¶45} Bosman failed to object at the sentencing hearing; thus, he has forfeited all but plain error review. *Id.* at ¶ 67. The discretion to recognize plain error must be exercised “‘with the utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice.’” *State v. Barnes*, 94 Ohio St.3d 21, 27 (2002), quoting *State v. Long*, 53 Ohio St.2d 91 (1978), paragraph three of the syllabus. “Crim.R. 52(B) does not demand that an appellate court correct [the error]. Crim.R. 52(B) states only

that a reviewing court ‘may’ notice plain forfeited errors; a court is not obliged to correct them.” *Id.* First, an error must be found, i.e., a deviation from a legal rule. *Id.* Second, the error must be plain, or “obvious.” *Id.* Third, the error must have affected “substantial rights,” meaning it affected the outcome of the proceeding. *Id.*

{¶46} In *Brunson*, the Supreme Court of Ohio held “that when a defendant has maintained his or her innocence by pleading not guilty and has taken the case to trial, the trial court errs when it considers the defendant’s silence to be a demonstration of that defendant’s lack of remorse for purposes of sentencing under R.C. 2929.12(D)(5). To consider the defendant’s silence as a lack of remorse in this context would create a negative inference regarding the factual determinations in the case—an inference that is prohibited under *Mitchell* [*v. United States*, 526 U.S. 314 (2005)].” *Brunson* at ¶ 83.

{¶47} The Supreme Court further determined that although the trial court’s consideration of the appellant’s decision to remain silent was error, it did not affect the appellant’s sentence in that case. *Id.* at ¶ 84. The court noted “[a] defendant’s lack of remorse is only one of five factors a trial court considers when evaluating a defendant’s risk of recidivism under R.C. 2929.12(D).” *Id.* at ¶ 85. The trial court also found the appellant had a high risk of recidivism because he had a lengthy criminal history, he committed the offenses while on postrelease control, and he had been adjudicated delinquent nine times. *Id.* In addition, the trial court considered the seriousness of the conduct and other relevant factors to achieve the purposes and principles of sentencing. *Id.* at ¶ 86. These facts as found by the trial court, even without the lack of remorse consideration, demonstrated that the outcome of the sentencing hearing would not have been different. *Id.*

{¶48} There is no question the trial court erred in this case. Bosman pleaded not guilty and chose to go to trial. The court's error is especially troubling because Bosman declined his right to allocution *based on the advice of his counsel* at sentencing.

{¶49} However, the trial court was explicit with its sentencing considerations on the record, and after a review of the trial court's findings, we cannot say the trial court's error rises to the level of plain error. The trial court stated it considered the sentencing materials, the statements made on Bosman's behalf, the victims' statements provided by the State and the victims' advocate; heard the arguments of counsel; and considered the principles and purposes of sentencing pursuant to R.C. 2929.11 and the recidivism and seriousness factors as set forth in R.C. 2929.12, especially noting the familial status and age of the victims. Lastly, Bosman was not sentenced to the maximum terms for rape and GSI. See R.C. 2907.02(B), 2907.05(C)(3), and 2929.14(A)(1)(a) and (A)(3)(a).

{¶50} Bosman has not demonstrated, or even argued, that in the absence of the error, his sentence would have been different.

{¶51} Accordingly, Bosman's third assignment of error is without merit.

Verdict Forms

{¶52} In his fourth assignment of error, Bosman contends he should have been convicted of the least degree of GSI because the jury verdict forms for Count 5 and Count 8 did not contain any enhancing language or cite the specific section of the statute.

{¶53} Pursuant to R.C. 2945.75:

(A) When the presence of one or more additional elements makes an offense one of more serious degree:

. . .

(2) A guilty verdict shall state either the degree of the offense of which the offender is found guilty, or that such additional element or elements are

present. Otherwise, a guilty verdict constitutes a finding of guilty of the least degree of the offense charged.

{¶54} Recently, in *State v. Khalif*, 2026-Ohio-2689, the Supreme Court of Ohio explained that “R.C. 2945.75(A)(2) plainly requires that a jury’s guilty verdict either state the degree of offense or the additional elements elevating an offense. Otherwise, the defendant can be convicted of only ‘the least degree of the offense charged.’” *Id.* at ¶ 20, quoting R.C. 2945.75(A)(2).

{¶55} In this case, however, Bosman was not charged with an offense that requires the jury to find additional elements to elevate the degree of the offense charged.

{¶56} R.C. 2907.05, GSI, provides, in relevant part:

(A) No person shall have sexual contact with another; cause another to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

. . .

(4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.

. . .

(C) Whoever violates this section is guilty of gross sexual imposition.

(2) Gross sexual imposition committed in violation of division (A)(4) or (B) of this section is a felony of the third degree. . . .

{¶57} In *State v. Hasenyager*, 2016-Ohio-3540 (9th Dist.), the Ninth District Court of Appeals succinctly explained:

A violation of R.C. 2907.05(A)(4) is a felony of the third degree. R.C. 2907.05(C)(2). There are no additional elements that will enhance this offense to a higher degree. R.C. 2907.05 does contain other subsections, but each has their own separate elements. Here, as charged in the indictment, the State was required to prove that [the defendant] had sexual contact with [the victim] for the purpose of sexual arousal or gratification and that [the victim] was under the age of thirteen at the time of the offense.

Failure to prove any of these elements would have resulted in an acquittal, not a conviction of a lesser degree of gross sexual imposition.

Id. at ¶ 27, quoting *State v. Edwards*, 2013-Ohio-3068, ¶ 35-36 (9th Dist.).

{¶58} Bosman’s argument fails because R.C. 2945.75(A)(2) does not apply to R.C. 2907.04(A)(4). An additional element is not required to elevate a violation of R.C. 2907.04(A)(4) to a felony of the third degree. *Id.* See also *State v. Kessler*, 2025-Ohio-1041, ¶ 78 (5th Dist.) (R.C. 2945.75(A)(2) is inapplicable to R.C. 2907.05(A)(4)); *State v. Haslam*, 2025-Ohio-1910, ¶ 14 (7th Dist.) (same).

{¶59} Accordingly, Bosman’s fourth assignment of error is without merit.

Ineffective Assistance of Counsel

{¶60} In his first assignment of error, Bosman contends his trial counsel was ineffective because he failed to object to improper “other acts” evidence and failed to correct the record following the jury verdicts on Counts 5 and Count 8 because the jury verdict forms were defective.

{¶61} “In evaluating ineffective assistance of counsel claims, Ohio appellate courts apply the two-part test enunciated by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). First, it must be determined that counsel’s performance fell below an objective standard of reasonableness. Second, it must be shown that prejudice resulted. ‘Prejudice exists when ‘the result of the trial would have been different’ but for counsel’s ineffectiveness.’” (Internal citations omitted.) *State v. Allen*, 2013-Ohio-434, ¶ 15 (11th Dist.), quoting *State v. Woodard*, 2010-Ohio-2949, ¶ 11 (11th Dist.), quoting *In re Roque*, 2006-Ohio-7007, ¶ 11 (11th Dist.).

{¶62} “In applying the foregoing standard, a ‘reviewing court indulges a strong presumption that counsel’s conduct is within the wide range of reasonable professional

representation. *Strickland* at 689. An attorney’s arguably reasoned strategic or tactical decisions do not generally constitute ineffectiveness. *State v. Phillips*, 74 Ohio St.3d 72, 85 (1995).” *Id.* at ¶ 16, quoting *State v. DelMonico*, 2005-Ohio-2902, ¶ 13 (11th Dist.). Further, “[t]o succeed on a claim of ineffective assistance of counsel based on counsel’s failure to file an objection, an appellant must demonstrate that the objection had a reasonable probability of success. If the objection would not have been successful, the appellant cannot prevail on a claim of ineffective assistance of counsel.” (Internal citations omitted.) *State v. Stroud*, 2023-Ohio-569, ¶ 53 (11th Dist.).

{¶63} Having previously determined these issues are without merit, Bosman’s ineffective assistance of counsel claims necessarily fail. *See, e.g., State v. Flitcraft*, 2024-Ohio-3146, ¶ 69 (11th Dist.) (having found the appellant did not establish prejudice in a previous assignment of error, he could not demonstrate ineffective assistance of counsel on the same basis); *State v. George*, 2024-Ohio-2125, ¶ 55 (11th Dist.) (same).

{¶64} Accordingly, Bosman’s first assignment of error is without merit.

{¶65} The judgment of the Geauga County Court of Common Pleas is affirmed.

JOHN J. EKLUND, J.,

EUGENE A. LUCCI, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignments of error are without merit. It is the judgment and order of this court that the judgment of the Geauga County Court of Common Pleas is affirmed.

Costs to be taxed against appellant.

PRESIDING JUDGE MATT LYNCH

JUDGE JOHN J. EKLUND,
concur

JUDGE EUGENE A. LUCCI,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY
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A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
