

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
MADISON COUNTY

STATE OF OHIO,	:	CASE NO. CA2025-10-026
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
EDWIN E. ZIMMERMAN,	:	9/14/2026
Appellant.	:	
	:	

CRIMINAL APPEAL FROM MADISON COUNTY COURT OF COMMON PLEAS
Case No. CRI 2022 0047

Nicholas A. Adkins, Madison County Prosecuting Attorney, and Rachel M. Price and Michael S. Klamo, Assistant Prosecuting Attorneys, for appellee.

Casey Bailey & Maines, PLLC, and Elizabeth Arrick, for appellant.

OPINION

SIEBERT, J.

{¶ 1} Appellant, Edwin Zimmerman, appeals his conviction for one count of rape in the Madison County Court of Common Pleas. The prosecution was commenced nearly

18 years after the offense. Zimmerman argues that the preindictment delay violated his due process rights, that the trial court improperly admitted physical and DNA evidence, and that his conviction was against the manifest weight of the evidence.

{¶ 2} After a thorough review of the record, we find no merit in any of Zimmerman's assignments of error. Zimmerman failed to establish actual prejudice resulting from the preindictment delay, the State sufficiently authenticated the challenged evidence, and the jury did not clearly lose its way in finding him guilty. Accordingly, we affirm the judgment of the trial court.

I. Facts and Procedural History

A. Assault and Initial Report

{¶ 3} In 2004, "Jane," then 18 years old, lived with Zimmerman in his home in West Jefferson, Ohio. Zimmerman was in his 40s. Jane's fiancé, "Andy," had also lived in the home but had recently begun serving a three-month jail sentence. Jane's six-month-old son spent much of his time at the nearby home of Jane's mother, "Mary."

{¶ 4} On the evening of April 2, 2004, Jane went drinking with friends and returned home sometime after midnight. Finding the house empty, she went to bed. She awoke early the next morning and noticed a sex toy and a condom beside her bed, neither of which belonged to her. As Jane tried to determine what had happened the night before, she saw Zimmerman standing in the doorway.

{¶ 5} Jane testified that Zimmerman entered the room, sat on the bed, and began touching her. According to Jane, Zimmerman placed his hand over her mouth and told her that he liked what he felt and that she "was going to give it to him whether [she] liked it or not." Zimmerman also stated that he was going to "pay back [Andy] for cheating on [her]" before forcing her onto the bed and raping her.

{¶ 6} Jane testified that she repeatedly told Zimmerman to stop, cried, and initially

struggled against him. She eventually stopped resisting because, in her words, it was "just easier to lay there until he was done." Jane testified that Zimmerman forcibly engaged in vaginal intercourse with her and performed cunnilingus against her will. Afterward, Zimmerman handed her the house phone and told her to call the police because he would "never get caught," before leaving the room.

{¶ 7} Jane showered and called Mary to pick her up. She also attempted to contact Andy but was unable to reach him. Mary picked Jane up between 8:00 a.m. and 9:00 a.m., and Jane remained at her mother's home throughout the day. Later that evening, because Mary was hosting a dinner party, Jane asked to be dropped off near Zimmerman's residence. Rather than return home, however, Jane walked to a friend's house.

{¶ 8} At approximately 8:30 p.m., Jane called Mary and reported that Zimmerman had raped her. Mary immediately contacted the police. Officers Gary McNeal and Matt Bowersock from the West Jefferson Police Department (WJPD) met Jane and Mary at Zimmerman's residence. When no one answered the door, the officers instructed Jane to enter the residence and retrieve the clothing she had worn during the assault. Jane returned with gray shorts and black lace underwear.

{¶ 9} The officers then transported Jane to the police station, where she provided a written statement and participated in an interview. Officers later took her to a hospital for a sexual-assault examination. Hospital personnel collected the blue-and-black checkered underwear she was wearing and completed a sexual-assault evidence kit. Officer McNeal took custody of the clothing recovered from Zimmerman's residence and the underwear collected at the hospital and transported the items to WJPD. He initially stored the evidence in his personal locker before transferring it to Detective Rodney Chenos, the department's only detective, who assumed responsibility for the

investigation.

{¶ 10} Although hospital personnel completed a sexual-assault evidence kit, the WJPD never received or retrieved the completed kit from the hospital, and the record does not explain why. Similarly, none of the physical evidence collected and preserved by WJPD was submitted for forensic testing during the initial investigation.

{¶ 11} As part of the investigation, Detective Chenos interviewed Zimmerman over a recorded telephone line. Detective Chenos told Zimmerman that Jane claimed he had "sex with her unauthorized" and was "more or less claiming you raped her." Zimmerman denied this, stating that "that did not . . . I can definitely tell you that did not happen." He repeatedly said he "didn't understand" the accusation and explained that he and Jane had recently argued about her child after he threatened to have the child taken away. Zimmerman later stated that he did not wake up until 1:30 p.m. or 2:00 p.m. on the day of the alleged assault and that Jane had come to the house to borrow his car and watch television.

{¶ 12} The investigation ultimately concluded without criminal charges. In a memorandum dated May 7, 2004, Detective Chenos documented the basis for that decision. The memorandum included several factual assertions that were either inaccurate or later disputed, including statements that Jane had been "partying all night with the accused" and that there was no physical evidence supporting her allegation.

{¶ 13} The case then remained dormant for many years. It was not revisited until physical evidence from the original investigation was rediscovered in the WJPD evidence room.

B. Renewed Investigation

{¶ 14} In November 2020, Officer Mallory Teders was tasked with organizing the WJPD evidence room. While reviewing evidence stored in the sexual-offenses section,

she discovered three envelopes and a paper bag containing evidence from Jane's case, including the black lace underwear, gray shorts, and blue-and-black checkered underwear. Officer Teders brought the materials to Detective Casey Conley, who directed her to submit the evidence to the Ohio Bureau of Criminal Investigation for forensic testing.

{¶ 15} On February 5, 2021, Detective Conley contacted Jane and asked her to come to the police department. Detective Conley and Detective Brandon Smith interviewed Jane and then allowed her to review the statement she had provided in 2004. During the interview, Jane initially told detectives that Zimmerman had tied her up during the assault. After reviewing her prior statement, however, Jane realized that she had been mistaken. She explained that the feeling of Zimmerman holding her down had caused her to remember the incident as though she had been tied up.

{¶ 16} Jane also described the effect the passage of time had had on her memory. She acknowledged that she had forgotten much of the incident and had "blocked everything out" after 17 years. She explained that she wanted to move forward with her life after the case was not pursued in 2004 and had done so.

{¶ 17} Detectives Conley and Smith also conducted a recorded telephone call with Zimmerman. Zimmerman again denied any wrongdoing. He stated that Jane had left her child at his residence on the day of the alleged assault while she spent time with her mother. When asked whether there was any reason his DNA might be found on Jane's clothing, Zimmerman responded that he had done Jane's laundry. He further stated that his semen would not be present, explaining, "sperm, no . . . there's no way."

{¶ 18} BCI forensic scientist Sara Devine analyzed the submitted evidence. DNA testing identified Zimmerman's DNA on both pairs of Jane's underwear. Specifically, testing detected semen matching Zimmerman's DNA profile on both the blue-and-black

checked underwear and the black lace underwear.

C. Indictment and Pretrial Proceedings

{¶ 19} On March 11, 2022, a Madison County Grand Jury indicted Zimmerman on three criminal counts: (1) kidnapping, in violation of R.C. 2905.01(A)(4), (2) rape by cunnilingus, in violation of R.C. 2907.02(A)(2), and (3) rape by vaginal intercourse, in violation of R.C. 2907.02(A)(2). The kidnapping charge was later dismissed and the matter proceeded on the two remaining counts.

{¶ 20} Zimmerman moved to dismiss the indictment based on preindictment delay. Following an evidentiary hearing, the trial court denied the motion. The court later denied Zimmerman's motion for reconsideration. Although the trial court acknowledged that certain witnesses and items of evidence were no longer available, it found that any resulting prejudice was speculative and, in some respects, "may actually prejudice the State's case." The trial court concluded that Zimmerman had "failed to prove any actual prejudice due to the delay in the filing of the Indictment."

D. Jury Trial and Sentence

{¶ 21} The matter proceeded to a jury trial. The State presented testimony from Detective Conley, Officer Teders, Jane, Mary, and BCI forensic scientist Sara Devine. The State did not call Officer McNeal, Officer Bowersock, Detective Chenos, or Chief Cox. Officer McNeal and Chief Cox were deceased by the time of trial. Officer Bowersock was alive and residing in North Carolina, while Detective Chenos had retired and continued to reside locally. The evidence also established that Andy, Jane's fiancé, had passed away.

{¶ 22} Detective Conley testified that he was familiar with the original investigation of Zimmerman's case but had not participated in it. He explained that he learned about the investigation through discussions with other officers, including Officer McNeal. Detective Conley testified regarding the circumstances under which the physical evidence

was rediscovered in 2020 and the procedures used to preserve and document the chain of custody.

{¶ 23} Officer Teders testified that she discovered the physical evidence while organizing the police department's evidence room. She identified the items at trial and testified about the chain-of-custody documents associated with them. Officer Teders was not employed by the department in 2004 and therefore had no personal knowledge concerning the condition or organization of the evidence room at that time. She nevertheless testified that the sealed packages showed no indication that they had been opened, altered, or otherwise accessed before being submitted to BCI.

{¶ 24} Mary testified about Jane's behavior on the day of the alleged assault and Jane's disclosure that Zimmerman had raped her. Mary also testified that she contacted law enforcement and accompanied Jane to the hospital for a sexual assault examination.

{¶ 25} Jane testified about the assault and the events surrounding it. She acknowledged that the passage of time had affected her memory and admitted that she had mistakenly remembered being tied up. She nevertheless maintained that Zimmerman had forcibly engaged in vaginal intercourse with her.

{¶ 26} Jane was also questioned about statements contained in earlier reports. In one statement, she indicated that "we were up partying all night." Jane explained that "we" referred to her and her friends, not Zimmerman. She maintained that she had not spent time with Zimmerman on the Friday night preceding the assault and had not been "partying" with him. Her testimony thus conflicted with Detective Chenos' memorandum, which stated that she had been "partying all night with the accused."

{¶ 27} Devine testified regarding her forensic analysis and explained that semen recovered from Jane's underwear matched Zimmerman's DNA profile.

{¶ 28} Zimmerman presented one witness, Dr. Frank Byrinyi, an emergency-room

physician who treated Jane on the day she reported the assault. Dr. Byrinyi had no independent recollection of that particular shift and was unable to provide any information concerning the whereabouts of the sexual assault kit.

{¶ 29} Throughout trial, defense counsel extensively cross-examined the State's witnesses, focusing on gaps in Jane's memory, inconsistencies in her accounts, the loss of the sexual assault kit, and deficiencies in the original investigation.¹ Counsel argued that the investigation had been mishandled and that, given the evidentiary deficiencies, the State had failed to meet its burden of proof.

{¶ 30} The jury found Zimmerman guilty of rape based on vaginal intercourse and not guilty of the rape count based on cunnilingus. The trial court sentenced Zimmerman to ten years in prison.

{¶ 31} Zimmerman now appeals, raising three assignments of error for review.

II. Appeal

{¶ 32} Zimmerman challenges the denial of his motion to dismiss based on preindictment delay, the admission of physical and DNA evidence, and the weight of the evidence supporting his conviction. We address his arguments in that order.

A. Preindictment Delay

{¶ 33} In his first assignment of error, Zimmerman argues that the trial court erred by denying his motion to dismiss based on preindictment delay. He contends that the nearly 18-year delay between the offense and his indictment resulted in actual prejudice to his defense.

{¶ 34} As an initial matter, although 18 years elapsed between the offense and the

1. As the trial court noted, there were serious deficiencies in the original investigation. In particular, the court expressed significant concerns about the lack of professionalism exhibited during the original investigation and acknowledged that those deficiencies adversely affected the victim, the defendant, and the administration of justice.

indictment, the case was commenced within the applicable statute of limitations. At the time of the offense, the statute of limitations for rape was 20 years. The General Assembly later extended the limitations period to 25 years. 2015 Ohio Laws 19.² Thus, the issue before us is not whether the indictment was timely, but whether the delay violated Zimmerman's due process rights.

1. Applicable Law

{¶ 35} A criminal defendant's right to a speedy trial is guaranteed by both the United States and Ohio Constitutions. *State v. Hopkins*, 2025-Ohio-2102, ¶ 20 (12th Dist.). Those protections, however, apply only after a person has been formally accused of a crime. *United States v. Marion*, 404 U.S. 307, 313 (1971). The government is not constitutionally required to discover, investigate, and prosecute a person within any particular period of time. *Id.*

{¶ 36} Statutes of limitations generally provide the primary safeguard against stale criminal charges by establishing definitive periods within which the State must commence prosecution. *State v. Jones*, 2016-Ohio-5105, ¶ 11. *See also United States v. Lovasco*, 431 U.S. 783, 789 (1977) (recognizing that statutes of limitations provide predictable and legislatively determined limits on the initiation of criminal charges). Compliance with the applicable statute of limitations, however, does not foreclose a due process claim. An unjustifiable delay between the commission of an offense and the filing of an indictment may violate a defendant's due process rights under the United States and Ohio Constitutions when the delay results in actual prejudice to the defense. *Jones* at ¶ 12, citing *State v. Luck*, 15 Ohio St.3d 150 (1984), paragraph two of the syllabus.

2. Ohio law also contains provisions permitting prosecution beyond 25 years in certain circumstances, including when a DNA identification is made more than 25 years after the offense. R.C. 2901.13(D)(1); *State v. Anderson*, 2022-Ohio-1313, ¶ 11, fn. 3 (8th Dist.).

{¶ 37} The defendant bears the initial burden of demonstrating actual prejudice. *State v. Wilson*, 2025-Ohio-134, ¶ 11 (12th Dist.). If the defendant establishes actual prejudice, the burden shifts to the State to demonstrate a justifiable reason for the delay. *Id.*

2. Actual Prejudice

{¶ 38} Whether a defendant has suffered actual prejudice is determined on a case-by-case basis by considering the evidence as it existed when the indictment was filed and determining whether the delay impaired the defendant's ability to receive a fair trial. *State v. August*, 2019-Ohio-4126, ¶ 12 (12th Dist.).

{¶ 39} "Actual prejudice exists when missing evidence or unavailable testimony, identified by the defendant and relevant to the defense, would minimize or eliminate the impact of the state's evidence and bolster the defense." *Jones*, 2016-Ohio-5105, at ¶ 28. Thus, a defendant must do more than identify missing evidence or unavailable witnesses. The defendant must specifically identify the lost evidence or testimony and explain how it would have minimized or eliminated the impact of the State's evidence and bolstered the defense. *State v. Hahaj*, 2025-Ohio-52, ¶ 23 (1st Dist.), citing *Jones* at ¶ 28.

{¶ 40} Although the State cites *State v. Fox*, 2009-Ohio-556, ¶ 37 (12th Dist.), for the proposition that a defendant must demonstrate the exculpatory value of missing evidence, *Fox* predates the Ohio Supreme Court's decision in *Jones*. Under *Jones*, a defendant need not establish that the missing evidence would conclusively prove innocence or constitute direct exculpatory evidence. *Jones* at ¶ 27. The defendant must, however, establish a concrete connection between the missing evidence or testimony and the defense. *Id.* at ¶ 28.

a. Unavailable Witnesses

{¶ 41} Zimmerman first argues that he was prejudiced by several witnesses who

allegedly became unavailable because of death, infirmity, or memory loss, including Detective Chenos, Officer Bowersock, Officer McNeal, and Chief Cox. The record, however, does not establish actual prejudice.

{¶ 42} Detective Chenos and Officer Bowersock were alive and available to testify at trial. Zimmerman cites no authority establishing that diminished memory or general infirmity renders a witness unavailable for purposes of a preindictment delay analysis. More importantly, faded memories, standing alone, do not establish actual prejudice. They are a natural consequence of the passage of time. *State v. Adams*, 2015-Ohio-3954, at ¶ 105, citing *United States v. Marion*, 404 U.S. 307, 325-326 (1971).

{¶ 43} Officer McNeal's death presents a slightly different issue, but it likewise does not establish prejudice attributable to preindictment delay. Officer McNeal died in June 2022, approximately two months after Zimmerman was indicted. Because prejudice is assessed as it existed when the indictment was filed, his subsequent death cannot establish prejudice attributable to the preindictment delay. *State v. Walls*, 2002-Ohio-5059, ¶ 52.

{¶ 44} Zimmerman also argues that Chief Cox (who died prior to the indictment) may have possessed information favorable to the defense concerning Jane's alleged failure to cooperate with the investigation, inconsistent statements, failure to provide requested medical information, and refusal to submit to a polygraph examination. We recognize that a defendant need not establish with certainty the precise testimony a deceased witness would have provided. *Jones*, 2016-Ohio-5105, at ¶ 27-28. As the Ohio Supreme Court has explained, a claim of actual prejudice is not "fatally speculative" merely because a defendant cannot articulate exactly how an unavailable witness would testify. *Id.* at ¶ 28. Nevertheless, a defendant must identify unavailable testimony relevant to the defense and explain how it would have minimized or eliminated the impact of the

State's evidence and bolstered the defense. *Id.* Here, Zimmerman has not shown that Chief Cox possessed material information that could not be obtained through other sources. This is not a situation, as in *Luck*, where the unavailable witness was purportedly the only eyewitness to the purported crime. *Luck*, 15 Ohio St.3d at 157-158. Although Detective Chenos reportedly discussed investigations with Chief Cox, the record establishes that Detective Chenos was the primary investigator. Zimmerman has not demonstrated that Chief Cox possessed information that would have undermined the State's case or bolstered the defense. Under these circumstances, the loss of Chief Cox as a witness does not establish actual prejudice.

{¶ 45} Zimmerman similarly argues that Detective Chenos, Officer McNeal, and Officer Bowersock could have testified that their reports fully and accurately documented all information gathered during the investigation. The record, however, contains no basis to conclude that these officers possessed materially favorable information omitted from their reports or that their testimony would have undermined the State's evidence. Police reports are investigative summaries, and an officer's failure to document a particular fact does not establish that the fact was never communicated. *See State ex rel. Myers v. Meyers*, 2022-Ohio-1915, ¶ 45; *State v. Thornton*, 2005-Ohio-3744, ¶ 22 (2nd Dist.).

{¶ 46} Zimmerman further contends that the officers could have explained why certain investigative steps were taken or not taken. But the reasons underlying those investigative decisions have little bearing on whether Zimmerman committed the charged offenses. The question for the jury was whether Zimmerman committed the offenses, not whether the original investigation was conducted appropriately. Moreover, the record reflects that defense counsel extensively cross-examined the officers who did testify regarding perceived deficiencies in the investigation, including the handling of evidence and other investigative decisions. Zimmerman has not demonstrated that additional

testimony from any other officer about the investigative steps taken or not taken would have differed from the evidence presented or otherwise affected his ability to defend against the charges.

{¶ 47} Finally, Zimmerman argues that his girlfriend and children could have provided favorable testimony had they been interviewed in 2004. This argument, however, concerns the scope and quality of the original investigation rather than prejudice resulting from the delay between the offense and indictment. The alleged failure to interview these individuals occurred when the investigation was conducted and was not caused by the subsequent passage of time. Moreover, Zimmerman claims only that these witnesses could have corroborated his account of the timeframe of certain events, whether Jane drove his vehicle without permission, and details regarding her movements after the assault (such as whether she returned home earlier than she remembered). None of these matters bears directly on whether the rape occurred. This case is therefore unlike *Luck*, where the unavailable witness was purportedly the only eyewitness to the offense. *Luck*, 15 Ohio St.3d at 157-158. None of the witnesses identified by Zimmerman was present during the assault or could have provided testimony concerning whether the offense did or did not happen. Zimmerman's assertions regarding these witnesses are imprecise and speculative and do not establish actual prejudice.

{¶ 48} In sum, Zimmerman has identified several witnesses whose testimony he believes might have benefited the defense. However, he has not demonstrated that any unavailable witness possessed evidence that could not be obtained through other means or that the loss of such testimony would have minimized or eliminated the impact of the State's evidence. *Jones*, 2016-Ohio-5105, at ¶ 26-28. Nor has he shown that any claimed loss of evidence resulted from the preindictment delay itself. Because Zimmerman's claims of prejudice are speculative, he has failed to satisfy his initial burden of establishing

actual prejudice.

b. Sexual-Assault Kit

{¶ 49} Zimmerman also argues that the loss of the sexual-assault kit prejudiced his defense because forensic testing might have produced favorable evidence. We acknowledge that the loss of the kit is troubling, but the record does not establish actual prejudice resulting from its loss.

{¶ 50} In this case, the sexual-assault kit was apparently unavailable from the outset. Although hospital personnel completed the kit, and there was testimony that the examination was performed, the kit was apparently never provided to WJPD, and the record contains no indication of what happened to it. Thus, its unavailability cannot be attributed to the delay between the original investigation and Zimmerman's indictment. That is, even if Zimmerman had been indicted shortly after the offense, no evidence establishes—beyond speculation largely based on the relative passage of time—that the kit would have been available to the State or to Zimmerman.

{¶ 51} This may not be a wholly satisfactory result, and it is extremely concerning that such sensitive material went missing, but the surrounding circumstances further cast doubt on Zimmerman's claim that the kit would have produced favorable evidence. Zimmerman's argument as to the missing kit is speculative and rests on the assumption that the kit might have produced exculpatory evidence. But the State had recovered physical evidence in the form of Jane's clothing, in particular, her underwear, that contained semen matching Zimmerman's DNA profile. Given that evidence, it is equally, if not more likely, that the sexual-assault kit would have produced inculpatory evidence rather than exculpatory evidence. As the trial court observed, the absence of additional forensic evidence may have benefited Zimmerman rather than prejudiced him.

{¶ 52} Moreover, this is not a case in which the State's evidence consisted solely

of Jane's recollection or an uncorroborated accusation. The DNA evidence provided corroboration independent of Jane's testimony. Zimmerman therefore has not shown that the loss of the sexual-assault kit minimized or could have minimized the impact of the State's evidence.

c. Original Decision Not to Prosecute

{¶ 53} Zimmerman also appears to rely on the State's decision not to prosecute in 2004 as evidence of prejudice. That argument also fails. The relevant inquiry is whether the delay impaired Zimmerman's ability to receive a fair trial, not whether law enforcement or prosecutors initially declined to pursue charges. *Jones*, 2016-Ohio-5105, at ¶ 18. The fact that the investigation remained dormant for many years does not demonstrate actual prejudice.

3. Failure to Establish Actual Prejudice

{¶ 54} Zimmerman has not demonstrated that the delay impaired his ability to receive a fair trial. His claims rest largely on speculation about what unavailable witnesses might have said and what testing of the missing sexual-assault kit might have revealed. But *Jones* requires more than speculation. Zimmerman must identify the missing evidence or testimony and demonstrate how it would have minimized or eliminated the impact of the State's evidence and bolstered his defense.

{¶ 55} Zimmerman has not made that showing. Because he failed to establish actual prejudice, the burden never shifted to the State to demonstrate a justifiable reason for the delay. *Adams*, 2015-Ohio-3954, at ¶ 107. The trial court therefore properly denied Zimmerman's motion to dismiss.

{¶ 56} Accordingly, Zimmerman's first assignment of error is overruled.

B. Admission of Evidence

{¶ 57} In his second assignment of error, Zimmerman argues that the trial court

erred by admitting the physical and DNA evidence, including the underwear, shorts, and resulting DNA-test results. He contends that the State failed to establish an adequate chain of custody and, therefore, failed to properly authenticate the exhibits pursuant to Evid.R. 901.

{¶ 58} The admission of evidence rests within the trial court's discretion and such decisions will not be reversed absent an abuse of discretion. *State v. Turner*, 2020-Ohio-1548, ¶ 31 (12th Dist.); *State v. Gomez*, 2005-Ohio-1606, ¶ 19 (3rd Dist.). An abuse of discretion occurs when the trial court's decision was unreasonable, arbitrary, or unconscionable. *State v. Brock*, 2026-Ohio-2036, ¶ 65 (12th Dist.)

{¶ 59} Evid.R. 901(A) provides that "[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." This threshold for authentication is low and does not require conclusive proof of authenticity. *State v. Cast*, 2022-Ohio-3967, ¶ 26 (12th Dist.). Rather, the proponent need only demonstrate a reasonable likelihood that the evidence is authentic. *Id.*, citing *State v. Panzeca*, 2020-Ohio-326, ¶ 26 (12th Dist.). Authenticity may be established through either direct or circumstantial evidence. *State v. York*, 2022-Ohio-2457, ¶ 14 (12th Dist.).

{¶ 60} The State satisfied that burden here. Officer McNeal collected Jane's underwear and shorts in 2004 and transported them to WJPD. Documentary evidence identified the items and documented their storage within the department's evidence system. In 2020, Officer Teders discovered the black lace underwear, blue-and-black checkered underwear, gray shorts, and hair evidence while conducting an inventory of the evidence room. Officer Teders identified the items at trial, reviewed the corresponding evidence records, and testified that the packages remained sealed and showed no indication that they had been accessed after being placed into storage.

{¶ 61} The State also presented Devine's testimony concerning BCI's evidence-handling procedures. Devine explained that BCI documents its chain of custody, follows procedures designed to prevent contamination, and requires evidence to be properly packaged and sealed before it is accepted for testing. She testified that the evidence in this case was received and processed in accordance with those procedures.

{¶ 62} On appeal, Zimmerman identifies several alleged deficiencies in the chain-of-custody, including uncertainty regarding how the evidence entered the property room, purported inconsistencies concerning the manner in which the evidence was packaged, and the absence of testimony from Officer McNeal, who died before trial. But none of these alleged deficiencies establish that the evidence was altered, contaminated, or otherwise tampered with.

{¶ 63} As the Ohio Supreme Court has recognized, the State is not required to establish a perfect or unbroken chain of custody. *State v. Gross*, 2002-Ohio-5524, ¶ 57; *State v. Jordan*, 2016-Ohio-603, ¶ 52 (2d Dist.). Rather, the State need only demonstrate a reasonable certainty that substitution, alteration, or tampering did not occur. *State v. Rajchel*, 2003-Ohio-3975, ¶ 21 (2d Dist.). Breaks or deficiencies in the chain of custody generally affect the weight of the evidence rather than its admissibility. *State v. Johnson*, 2019-Ohio-754, ¶ 24 (12th Dist.).

{¶ 64} Here, Zimmerman presented no evidence that the exhibits had been altered, contaminated, substituted, or tampered with. Indeed, outside the presence of the jury, defense counsel acknowledged that there was no reason to believe the evidence had been tampered with after its collection. Instead, counsel argued that the State had failed to sufficiently authenticate the evidence under Evid. R. 901.

{¶ 65} The trial court properly rejected that argument. Jane identified the clothing as hers and testified that she provided the items to law enforcement as part of the

investigation. Officer Teders accounted for the evidence from the time she discovered it in the evidence room through its submission to BCI. Devine testified about BCI's receipt, handling, and analysis of the evidence. Collectively, this evidence was sufficient to establish a reasonable likelihood that the exhibits were what the State claimed them to be.

{¶ 66} Any gaps or inconsistencies in the chain of custody went to the weight and credibility of the evidence, not its admissibility. Accordingly, the trial court did not abuse its discretion in admitting the challenged exhibits. Zimmerman's second assignment of error is overruled.

C. Manifest Weight of the Evidence

{¶ 67} In his third assignment of error, Zimmerman argues that his convictions are against the manifest weight of the evidence.

{¶ 68} A manifest-weight challenge concerns the inclination of the greater amount of credible evidence presented at trial to support one side of the issue rather than the other. *State v. Barnett*, 2012-Ohio-2372, ¶ 14 (12th Dist.). In reviewing such a challenge, an appellate court must examine the entire record, weight the evidence and all reasonable inferences, consider witness credibility, and determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice requiring reversal and a new trial. *State v. Deaton*, 2026-Ohio-2654, ¶ 26 (12th Dist.). Reversal on manifest-weight grounds is reserved for the exceptional case in which the evidence weighs heavily against conviction. *State v. Brock*, 2026-Ohio-2036, ¶ 29 (12th Dist.).

{¶ 69} Zimmerman was convicted of rape in violation of R.C. 2907.02(A)(2), which prohibits a person from engaging in sexual conduct with another when the offender purposely compels the victim to submit by force or threat of force. R.C. 2907.01(A) defines "sexual conduct" as "vaginal intercourse between a male and female." Vaginal

intercourse between a male and a female means penetration of the vagina with the penis. *State v. Jackson*, 2023-Ohio-3749, ¶ 18 (12th Dist.).

{¶ 70} Zimmerman challenges Jane's credibility and points to inconsistencies in her testimony. He also relies upon several of the same issues raised in his other assignments of error, including the delay in prosecution, the loss of the sexual-assault kit, and alleged deficiencies in the chain of custody.

{¶ 71} We find no merit to these arguments. The jury was in the best position to observe the witnesses, evaluate their credibility, and resolve conflicts in the evidence. *State v. Stidum*, 2026-Ohio-2975, ¶ 17 (12th Dist.). A conviction is not against the manifest weight of the evidence merely because the jury chose to believe the State's witnesses. *Brock* at ¶ 46.

{¶ 72} Jane provided detailed testimony concerning the assault. Although nearly two decades had passed since the offense, she testified that Zimmerman entered her bedroom, physically overpowered her despite her resistance, and forcibly engaged in vaginal intercourse with her. Jane candidly acknowledged that the passage of time had affected her recollection and admitted that she had mistakenly remembered being tied up. Despite these lapses, Jane consistently maintained her central claim that Zimmerman had forcibly raped her.

{¶ 73} Jane's testimony was also corroborated by other evidence. Mary testified about Jane's behavior following the assault and her disclosure that Zimmerman had raped her. The State further presented Devine's testimony that semen matching Zimmerman's DNA profile was recovered from both pairs of Jane's underwear.

{¶ 74} In his interviews with police, Zimmerman suggested that his DNA may have been transferred to her clothing because he had done laundry for members of the household. The jury, however, was not required to accept that explanation. Ultimately,

the case turned largely on witness credibility and the weight to be afforded the forensic evidence. The jury was entitled to credit Jane's testimony, consider the inconsistencies in her accounts, and resolve those inconsistencies in determining her credibility. *State v. Pilgrim*, 2009-Ohio-5357, ¶ 32 (10th Dist.) (recognizing that a jury may consider inconsistencies and resolve them accordingly); *Ohio Jury Instructions*, CR § 409.05 (Rev. August 15, 2012). The jury's decision to credit Jane's testimony does not render the conviction against the manifest weight of the evidence.

{¶ 75} Having reviewed the entire record, weighed the evidence and all reasonable inferences, and considered the credibility of the witnesses, we conclude that this is not the exceptional case in which the evidence weighs heavily against conviction. The jury did not clearly lose its way or create a manifest miscarriage of justice in finding Zimmerman guilty of rape.

{¶ 76} Accordingly, Zimmerman's third assignment of error is overruled.

{¶ 77} Judgment affirmed.

PIPER, P.J., and M. POWELL, J., concur.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Madison County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Robin N. Piper, Presiding Judge

/s/ Mike Powell, Judge

/s/ Melena S. Siebert, Judge