[Cite as *State v. Reynolds*, 2025-Ohio-5424.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ADAMS COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. 25CA1209
v.	:	
WESTON REYNOLDS,	:	DECISION AND JUDGMENT ENTRY
Defendant-Appellant.	:	

APPEARANCES:

Brian T. Goldberg, Cincinnati, Ohio, for appellant[1].

Aaron E. Haslam, Adams County Prosecuting Attorney, West Union, Ohio, for appellee.

CRIMINAL APPEAL FROM COMMON PLEAS COURT
DATE JOURNALIZED:11-24-25
ABELE, J.

{¶1} This is an appeal from an Adams County Common Pleas Court judgment of conviction and sentence. Weston Reynolds, defendant below and appellant herein, raises two assignments of error for review:

FIRST ASSIGNMENT OF ERROR:

"THE GUILTY VERDICT FORM VIOLATED R.C. 2945.75."

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[1] Different counsel represented appellant during the trial court proceedings.

SECOND ASSIGNMENT OF ERROR:

"MR. REYNOLD'S CONVICTION WAS NOT SUPPORTED BY SUFFICIENT EVIDENCE AND WAS CONTRARY TO THE MANIFEST WEIGHT OF THE EVIDENCE AS MR. REYNOLDS HAD AN AFFIRMATIVE DEFENSE TO THE CHARGE."

{¶2} In May 2024, an Adams County Grand Jury returned an indictment that charged appellant with one count of disseminating matter harmful to juveniles in violation of R.C. 2907.31(A)(1), a fifth-degree felony. Appellant entered a not guilty plea.

{¶3} A two-day jury trial began on December 16, 2024. Kenneth Dick testified that on March 15, 2024, he worked as an investigator for the Adams County Prosecutor's Office when he received a referral from Deputy Mark Brewer regarding 14-year-old A.R., appellant's daughter. While at school, A.R. received a sexually explicit video from her father, appellant. Investigator Dick played the video for the jury and identified appellant in the video.

{¶4} Investigator Dick also played the video of his interview with appellant. After being advised of his *Miranda* rights, appellant first told Dick that at the time his daughter received the video, he "was not in possession of that phone." Appellant claimed that he lost the phone, "someone" found it on a bicycle path that he never used, and "someone" sent the video to his daughter. Appellant added that his mother then "found

[the phone] up at the police station." When asked if he retrieved the phone after it had been found, he said he did not "cause I already got a new one." Appellant did not have an answer, however, how someone else could have unlocked his phone and sent the video. Furthermore, appellant denied that he sent a message to his daughter stating that the video had not been intended for her.

{¶5} Investigator Dick testified that appellant later changed his story and stated, "I didn't send that . . . If I did. It wasn't on purpose." Appellant also stated that he "flipped the f@ck out, I got scared." Appellant "was talking to a few girls online and I sent them pictures all the time. . . Messenger random people getting a hold of each other again, sometimes getting sexual." When asked how his daughter's name became involved, appellant replied, "That I don't understand. I don't know how it got sent, but I did realize, and, and I did send it." Appellant also claimed, "I tried to delete it and it would not let me delete it."

{¶6} A.R. testified that her father, appellant, sent the inappropriate video through Facebook Messenger to her when she was in eighth grade. A.R. testified that her Facebook profile is her first and last name and the profile picture is a photo of her and her grandmother. A.R. testified that, after appellant sent the video, later that night he sent her another message

that the video "wasn't meant for me" and he deleted the video several hours after he sent it. A.R. testified that the video, which depicted her father masturbating with a sex doll, made her uncomfortable. In addition, A.R.'s mother, Stephanie Cooper, testified that on March 15, 2024 A.R. sent her a message that "her dad sent her something that was very, very uncomfortable," and A.R. forwarded it to Cooper. Cooper identified the video as appellant "masturbating with a toy."

{¶7} At the close of the State's case, the trial court denied appellant's Crim.R. 29 motion for judgment of acquittal.

{¶8} Appellant testified in his defense that A.R. is his only biological child and that he "made that video . . . for my own viewing." Appellant stated that at approximately 7:00 a.m. on March 15, he "was talking to another lady named Mary Scott," "pretty much all through the night, off and on." Appellant characterized the nature of the conversation through Facebook Messenger as "sexual." He recalled that he sent the video of him "masturbating with a sex doll," but did not intend to send it to A.R. and did not realize at the time that he sent it to her. Appellant testified that he instead intended to send the video to Mary, "waited for an answer back. I never got an answer back from Mary, so I put my phone on . . . YouTube and just started watching a movie."

{¶9} Appellant testified that he "was not really sure" how

he sent the video to his daughter, but added, "the only thing I can explain is, is I've hit the wrong, the wrong one, and being so close together . . . and I just didn't realize it until, uh, later that afternoon . . . around 12, one o'clock." Appellant stated that he "noticed that I'd gotten a text from my daughter, a WTF [what the f*ck], and I also noticed she had got it [the sex video]." Appellant stated that he tried to delete the video, and "after I couldn't delete it, I left a message to her that said that was not meant for you." Appellant said he "knew that I'd made a horrible mistake, something that I couldn't fix. It's the devastating mistake I didn't, that I didn't mean to. I, I, it was a loss for words. I didn't know what to say or, or do about it." In addition, appellant said, he "was scared. I was ashamed. Um, I, I just, I really didn't know what to do." When asked if it ever occurred to him that the video going to the wrong person could be a "likely possibility," appellant replied, "I know it was probable, but not likely."

{¶10} On cross-examination, appellee asked appellant, "would you agree with me that that's an obscene video?" Appellant replied, "Yes sir." When asked, "and that it is harmful to send that to the juvenile?" Appellant replied, "Yes sir. Definitely." Appellant also acknowledged that he did not initially tell the truth to Investigator Dick. Appellant said he rarely messaged his daughter and only saw her a couple of

times a year. When asked how he could have accidentally sent the video because his daughter's name "wouldn't have been anywhere near the top" in Messenger, appellant replied, "I've only got about four or five people on my list, and she was one of the few that I do text." Appellant also acknowledged that Mary Scott and A.R.'s names do not begin with the same letters.

{¶11} At the close of the defense case, the trial court denied appellant's renewed Crim.R. 29 motion for judgment of acquittal.

{¶12} After deliberation, the jury found appellant guilty of disseminating matter harmful to juveniles in violation of R.C. 2907.31(A)(1).

{¶13} At sentencing, A.R.'s mother stated that A.R. has been diagnosed with schizophrenia, anxiety, depression, and "it's only made her worse because it is her father." A.R. has cut herself, been suicidal, and has been hospitalized for psychiatric issues. Mother further stated that appellant had "been out of [A.R.]'s life" for 15 years and then "decided to pop into her life because you gotta divorce or separation from your wife. And then you do this. I want you to think about that, because if something happens to my child, I want it on your mind that you're the one who pushed her over the edge."

{¶14} After the sentencing hearing, the trial court considered the pertinent sentencing statutes and factors and

sentenced appellant to (1) serve an 11-month prison term, (2) serve a 2-year postrelease control term, (3) pay a $1,250 fine, and (4) pay costs.

{¶15} On April 28, 2025, the trial court issued an amended sentencing entry and ordered appellant to (1) serve an 11-month prison term, (2) a mandatory 5-year postrelease control term, (3) pay a $1,250.00 fine, and (4) pay costs. This appeal followed.

I.

{¶16} In his first assignment of error, appellant asserts that the guilty verdict form violated R.C. 2945.75. Specifically, appellant contends that, because the verdict form did not contain the degree of offense or an additional element to enhance the offense, appellant could only be convicted of the lowest degree of the charged offense. Appellee, however, argues that, because appellant failed to object to the verdict form at trial, he has waived on appeal all but plain error.

{¶17} In the case sub judice, the jury found appellant guilty of violating R.C. 2907.31(A)(1), which provides:

> No person, with knowledge of its character or content, shall recklessly do any of the following: (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile . . . any material or performance that is obscene or harmful to juveniles.

R.C. 2907.31(F) provides

> Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, except as otherwise provided in this division, a violation of this section is a felony of the fifth degree. . .

R.C. 2945.75 provides:

> (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.

Appellant points out that in *State v. Pelfrey*, 2007-Ohio-256, syllabus, the Supreme Court of Ohio held:

> Pursuant to the clear language of R.C. 2945.75, a verdict form signed by a jury must include either the degree of the offense of which the defendant is convicted or a statement that an aggravating element has been found to justify convicting a defendant of a greater degree of a criminal offense.

The court noted that, because the language of R.C. 2945.75(A)(2) is clear, the court would not excuse the failure to comply with the statute or uphold Pelfrey's conviction based on additional circumstances such as those present in that case. The court explained:

> The express requirement of the statute cannot be fulfilled by demonstrating additional circumstances, such as that the verdict incorporates the language of the indictment, or by presenting evidence to show the presence of the aggravated element at trial or the incorporation of the indictment into the verdict form, or by showing that the defendant failed to raise the issue of the inadequacy of the verdict form. *Id.* at ¶ 14.

{¶18} However, appellee points out that the Ohio Supreme Court more recently held that plain-error analysis applies when a defendant does not object to a verdict form's alleged noncompliance with R.C. 2945.75(A)(2). *State v. Mays*, 2024-Ohio-4616, ¶ 23, citing *State v. Eafford,* 2012-Ohio-2224, ¶ 11-12. *Mays* reaffirmed that when a trial court's alleged error results in a greater punishment for the defendant, the defendant bears the burden to object and call the trial court's attention to the error. *Mays* at ¶ 25, citing *Eafford* at ¶ 11-12; *State v. Gleason,* 110 Ohio App.3d 240, 248 (9th Dist. 1996)("the errors that a defendant is required to object to in the trial court are those that prejudice *him"* [emphasis in original]).

{¶19} Under plain-error review, three elements must be met in order to find reversible error: (1) a deviation from a legal rule, (2) that deviation must be an obvious defect in the trial proceedings, and (3) the deviation must have affected substantial rights. *Eafford* at ¶ 11, citing *State v. Payne*, 2007-Ohio-4642, ¶ 16; *Mays* at ¶ 27. In *Mays,* the verdict form contained no reference to the degree of the offense and did not

list the additional elements required for the offense level to be raised, but did cite the statutory section that required the degree of the offense be raised in certain circumstances. *Id.* at ¶ 7. The *Mays* court held that, even if the verdict form failed to comply with R.C. 2945.75(A)(2), the defendant failed to show plain error because the verdict form's deviation from R.C. 2945.75(A)(2) did not affect his substantial rights. *Id.* The court noted that Mays had previously been convicted of violating a protection order, and the jury found Mays guilty of violating a protection order. Thus, pursuant to R.C. 2919.27(B)(3)(c), a protection order violation is a fifth-degree felony when the offender has previously been convicted of violating a protection order. *Id. See also State v. Heald,* 2025-Ohio-3031, ¶ 78 (11th Dist.)(appellant failed to object to any error in the verdict form and failed to demonstrate outcome of trial would have been different but for verdict form.); *State v. Thomas,* 2025-Ohio-603, ¶ 23-27 (3d Dist.)(in absence of objection to verdict form deficiencies, plain-error review may be applied on appeal and error in verdict forms did not affect defendant's substantial rights.)

{¶20} In the case sub judice, the indictment charged appellant with disseminating matters harmful to juveniles, a fifth-degree felony in violation of R.C. 2907.31(A)(1). Pursuant to R.C. 2907.31(A)(1), disseminating matters *harmful* to

juveniles is a first-degree misdemeanor, while a violation that involves *obscene* matters is a fifth-degree felony. Because the verdict form did not specify the level of offense, it did not comply with R.C. 2945.75(A)(2).

{¶21} Although the verdict form in question is defective, we nevertheless conclude that this defect did not affect appellant's substantial rights or the trial outcome. The trial court gave the jury lengthy and detailed instructions, inter alia, concerning the definition of obscene material or performances, and material harmful to juveniles. Adams County Prosecutor's Office Investigator Kenneth Dick testified that, he investigated a report that 14-year-old A.R. received "a sexual video" via Facebook Messenger while at school from her father, appellant. The video portrayed appellant masturbating with a sex doll. Investigator Dick further testified that appellant initially denied that he sent the video and claimed that someone had stolen his phone and sent the video. After several minutes, however, appellant admitted he sent it, but claimed that it "wasn't on purpose."

{¶22} A.R. testified that she was a 14-year-old eighth-grader when she received the video. A.R.'s name on Facebook Messenger is her first and last name, and her profile picture is a picture of her and her grandmother. A.R. further testified that the video made her feel uncomfortable, had no educational

or artistic purpose, and she did not request the video. In addition, A.R.'s mother, Stephanie Cooper, testified that her daughter, an eighth-grader at the time, received a sexually explicit video from her father, appellant, while at school. Cooper viewed the video and identified it as appellant "masturbating with a toy."

{¶23} Appellant, himself, acknowledged at trial that he recorded the video himself and sent it to his daughter. Although appellant claimed that he intended to send the video to women he communicated with online, when asked, "would you agree with me that that's an obscene video," appellant replied, "Yes, sir," and when asked, "And that it is harmful to send that to the juvenile?," appellant replied, "Yes sir. Definitely."

{¶24} After our review we conclude that the evidence adduced at trial clearly establishes that the video appellant disseminated to his daughter is obscene and constitutes a fifth-degree felony. *See also State v. Toth,* 2006-Ohio-2173 (9th Dist.)(having one's daughter watch a video depicting parents having sexual intercourse with their children and children having sexual intercourse with their siblings is harmful to daughter and obscene.) Thus, the deficiencies in the verdict form under R.C. 2945.75(A)(2) did not affect appellant's substantial rights. Therefore, even if we find error under R.C.

2945.75(A)(2), absent plain error we are compelled to affirm the trial court's judgment. Appellant did not raise the issue in the trial court, neither appellant nor his counsel was confused about the charge levied against him and no evidence exists about possible juror confusion. *Mays* at ¶ 27.

{¶25} Accordingly, we overrule appellant's first assignment of error.

II.

{¶26} In his second assignment of error, appellant asserts that insufficient evidence supports his conviction and his conviction is contrary to the manifest weight of the evidence. As a threshold matter, because appellant challenges both the sufficiency of the evidence and its manifest weight, we initially address both standards of review.

{¶27} A claim of insufficient evidence invokes a due process concern and raises the question whether the evidence is legally sufficient to support the verdict as a matter of law. *State v. Thompkins*, 78 Ohio St.3d 380, 386, syllabus (1997); *State v. Blevins*, 2019-Ohio-2744, ¶ 18 (4th Dist.). When reviewing the sufficiency of the evidence, an appellate court's inquiry focuses primarily on the adequacy of the evidence; that is, whether the evidence, if believed, could reasonably support a finding of guilt beyond a reasonable doubt. *Id.* at syllabus. The standard of review is whether, after viewing the probative

evidence and inferences reasonably drawn therefrom in the light most favorable to the prosecution, any rational trier of fact could have found all the essential elements of the offense beyond a reasonable doubt. *E.g., Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *State v. Jenks*, 61 Ohio St.3d 259, 273 (1991); *State v. Brock*, 2024-Ohio-1036, ¶ 13 (4th Dist.).

{¶28} Furthermore, under the sufficiency of the evidence standard a reviewing court does not assess "whether the state's evidence is to be believed, but whether, if believed, the evidence against a defendant would support a conviction." *Thompkins*, 78 Ohio St.3d 380, 390 (1997) (Cook, J., concurring). Therefore, when an appellate court reviews a sufficiency of the evidence claim, the court must construe the evidence in a light most favorable to the prosecution. *See, e.g., State v. Hill*, 75 Ohio St.3d 195, 205 (1996); *State v. Grant*, 67 Ohio St.3d 465, 477 (1993). A reviewing court will not overturn a conviction on a sufficiency of the evidence claim unless reasonable minds could not reach the conclusion the trier of fact did. *State v. Tibbetts*, 92 Ohio St.3d 146, 162; *State v. Treesh*, 90 Ohio St.3d 460, 484 (2001).

{¶29} "Although a court of appeals may determine that a judgment of a trial court is sustained by sufficient evidence, that court may nevertheless conclude that the judgment is against the weight of the evidence." *Thompkins*, 78 Ohio St.3d

at 387. "The question to be answered when a manifest weight issue is raised is whether 'there is substantial evidence upon which a jury could reasonably conclude that all the elements have been proved beyond a reasonable doubt.' " *State v. Leonard*, 2004-Ohio-6235, ¶ 81, quoting *State v. Getsy*, 84 Ohio St.3d 180, 193–194 (1998), citing *State v. Eley*, 56 Ohio St.2d 169, syllabus (1978). A court that considers a manifest weight challenge must " 'review the entire record, weigh the evidence and all reasonable inferences, and consider the credibility of witnesses.' " *State v. Beasley*, 2018-Ohio-493, ¶ 208, quoting *State v. McKelton*, 2016-Ohio-5735, ¶ 328. Reviewing courts must also bear in mind that credibility generally is an issue for the trier of fact to resolve. *State v. Issa*, 93 Ohio St.3d 49, 67 (2001); *State v. Murphy*, 2008-Ohio-1744, ¶ 31 (4th Dist.). " 'Because the trier of fact sees and hears the witnesses and is particularly competent to decide "whether, and to what extent, to credit the testimony of particular witnesses," we must afford substantial deference to its determinations of credibility.' " *Barberton v. Jenney*, 2010-Ohio-2420, ¶ 20, quoting *State v. Konya*, 2006-Ohio-6312, ¶ 6 (2d Dist.), quoting *State v. Lawson*, 1997 WL 476684 (2d Dist. Aug. 22, 1997).

{¶30} Generally, an appellate court will defer to the trier of fact on issues of evidence weight and credibility, as long as a rational basis exists in the record for the fact-finder's

determination. *State v. Picklesimer*, 2012-Ohio-1282, ¶ 24 (4th Dist.); *accord State v. Howard*, 2007-Ohio-6331, ¶ 6 (4th Dist.) ("We will not intercede as long as the trier of fact has some factual and rational basis for its determination of credibility and weight."). Accordingly, if the prosecution presented substantial credible evidence upon which the trier of fact reasonably could conclude, beyond a reasonable doubt, that the essential elements of the offense had been established, the judgment of conviction is not against the manifest weight of the evidence. *Accord Eastley v. Volkman*, 2012-Ohio-2179, ¶ 12, quoting *Thompkins*, 78 Ohio St.3d at 387, quoting Black's Law Dictionary 1594 (6th Ed. 1990) (a judgment is not against the manifest weight of the evidence when " ' "the greater amount of credible evidence" ' " supports it).

{¶31} Consequently, when a court reviews a manifest weight of the evidence claim, a court may reverse a judgment of conviction only if it appears that the fact-finder, when it resolved the conflicts in evidence, " 'clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.' " *Thompkins*, 78 Ohio St.3d at 387, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983); *accord McKelton* at ¶ 328. Finally, a reviewing court should find a conviction against the manifest weight of the evidence only in the " 'exceptional case

in which the evidence weighs heavily against the conviction.' " *Thompkins*, 78 Ohio St.3d at 387, quoting *Martin*, 20 Ohio App.3d at 175; *accord State v. Clinton*, 2017-Ohio-9423, ¶ 166; *State v. Lindsey*, 87 Ohio St.3d 479, 483 (2000).

{¶32} In the case sub judice, appellant asserts that appellee failed to adduce sufficient evidence to support his disseminating matter harmful to juveniles conviction. R.C. 2907.31(A)(1) sets forth the essential elements of disseminating matter harmful to juveniles and provides:

> No person, with knowledge of its character or content, shall recklessly do any of the following: (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile . . . any material or performance that is obscene or harmful to juveniles[.]

{¶33} In the case at bar, appellant's argument that appellee failed to prove beyond a reasonable doubt that he disseminated obscene matter harmful to his minor daughter fails due to the evidence adduced at trial. After our review of the record, we believe it reasonable for the jury to determine, based upon the jury's reasonable inferences, that appellant disseminated matter harmful to juveniles in violation of R.C. 2907.31(A)(1), a fifth-degree felony. For example, appellee adduced evidence to show: (1) appellant had knowledge of the character or conduct of the video he created that depicted him "masturbating with a sex toy," (2) appellant admitted to Investigator Dick that he sent

the sexually explicit video to his daughter, and (3) appellant conceded at trial that the video is obscene.

{¶34} Thus, we believe that the record contains sufficient evidence to support appellant's conviction. The probative evidence, with the inferences reasonably drawn therefrom in a light most favorable to the prosecution, constitutes sufficient evidence, if believed, to prove each element of the offense.

{¶35} Turning to the manifest weight issue, to decide whether the case sub judice is an exceptional case in which the evidence weighs heavily against conviction, this court must review the record, weigh the evidence and all reasonable inferences, and consider witness credibility. *State v. Martin*, 20 Ohio App.3d 172, 175, (1st Dist. 1983). However, the reviewing court must bear in mind that credibility generally is an issue for the trier of fact to resolve. *State v. Schroeder*, 2019-Ohio-4136, ¶ 61 (4th Dist.); *State v. Dunn*, 2012-Ohio-518, ¶ 16 (4th Dist.); *State v. Wickersham*, 2015-Ohio-2756, ¶ 25 (4th Dist.). Because the trier of fact sees and hears the witnesses, an appellate court will afford substantial deference to a trier of fact's credibility determinations. *Schroeder* at ¶ 62. The jury has the ability to observe witnesses testify, view facial expressions and body language, hear voice inflections, and discern qualities such as hesitancy, equivocation, and candor. *State v. Fell*, 2012-Ohio-616, ¶ 14 (6th Dist.); *State v.*

Pinkerman, 2024-Ohio-1150, ¶ 26 (4th Dist.). Thus, an appellate court may reverse a conviction if the trier of fact clearly lost its way in resolving conflicts in the evidence and created a manifest miscarriage of justice. *State v. Benge*, 2021-Ohio-152, ¶ 28 (4th Dist.); *State v. Prince*, 2025-Ohio-2996, ¶ 98 (4th Dist.).

{¶36} " 'A reviewing court should not disturb the fact-finder's resolution of conflicting evidence unless the fact-finder clearly lost its way.' " *State v. Newman*, 2015-Ohio-4283, ¶ 56 (4th Dist.), quoting *State v. Davis*, 2010-Ohio-555, ¶ 16-17 (4th Dist.). After our review, we do not believe that the present case is an exceptional case in which the evidence weighs heavily against the conviction. As we noted above, the record is replete with evidence, if believed, that appellant committed the charged crime. Accordingly, we cannot say the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction is against the manifest weight of the evidence. *See State v. Kyle*, 2020-Ohio-3281, ¶ 41-44 (8th Dist.).

{¶37} In the case sub judice, when we weigh the evidence adduced at trial and all reasonable inferences therefrom, we cannot conclude that the trier of fact lost its way. Again, the evidence revealed that: (1) appellant had knowledge of the character or conduct of the video he created that depicted him

"masturbating with a sex toy," (2) appellant admitted to Investigator Kenneth Dick that he sent the sexually explicit video to his then 14-year-old daughter, A.R., and (3) appellant conceded in his trial testimony that the video was obscene. The trier of fact fully considered the evidence and found appellant guilty of disseminating matter harmful to juveniles in violation of R.C. 2907.31(A)(1). It is important to recognize that a trier of fact may choose to believe all, part or none of the testimony of any witness who testifies at trial. Thus, in view of the foregoing, we conclude that appellant's conviction for disseminating matter harmful to juveniles is not against the manifest weight of the evidence.

{¶38} In addition to his sufficiency of the evidence and manifest weight claims, appellant also contends that he adduced evidence to prove the affirmative defense that the material is harmful, but not obscene, and that appellant is the parent of the juvenile involved. R.C. 2907.31(B)(1) provides:

> (B) The following are affirmative defenses to a charge under this section that involves material or a performance that is harmful to juveniles but not obscene:
>
> (1) The defendant is the parent, guardian, or spouse of the juvenile involved.

{¶39} In the case at bar, the jury, the trier of fact, chose to disbelieve appellant's testimony that he did not intend to

send the sexually explicit video to his minor daughter. Although appellant also characterizes the video as merely "harmful" rather than "obscene," appellant's own statements contradict his theory. Again, appellant acknowledged in his interview with Investigator Kenneth Dick that he created the sexually explicit video of himself, sent it to his minor daughter, and conceded at trial that the video is indeed obscene. Furthermore, the trial court gave detailed jury instructions that defined the pertinent terms. Thus, after we consider all the evidence adduced at trial, we believe that a rational jury could have rejected appellant's affirmative defense theory. As noted above, appellee presented ample, competent credible evidence that appellant disseminated a video that depicted him masturbating with a sex doll to his then 14-year-old daughter.

{¶40} Consequently, based upon the foregoing reasons, we conclude that the jury did not clearly lose its way and create a manifest miscarriage of justice. Accordingly, based upon the foregoing reasons, we overrule appellant's assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the judgment be affirmed. Appellee shall recover of 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 Adams County Common Pleas Court to carry this judgment into execution.

If a stay of execution of sentence and release upon bail has been previously granted by the trial court or this court, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of the proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

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

Smith, P.J. & Hess, J.: Concur in Judgment & Opinion

For the Court

BY:_____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.