[Cite as *State v. Steele*, 2025-Ohio-5730.]

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

STATE OF OHIO,	:	
	:	Case No. 23CA4034
Plaintiff-Appellee,	:	
	:	
v.	:	
	:	
PERRY L. STEELE,	:	DECISION AND JUDGMENT
	:	ENTRY
Defendant-Appellant.	:	
	:	**RELEASED: 12/09/2025**

APPEARANCES:

Valerie M. Webb, Portsmouth, Ohio, for appellant.

Shane A. Tieman, Scioto County Prosecuting Attorney and Jay Willis, Scioto County Assistant Prosecuting Attorney, Portsmouth, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal of a Scioto County Court of Common Pleas judgment entry in which Perry L. Steele ("Steele") was convicted of trafficking in a fentanyl-related compound, after a jury acquitted him of involuntary manslaughter. On appeal Steele contends his conviction should be reversed because there is insufficient evidence to support a finding of guilt beyond a reasonable doubt. Further, Steele asserts that his conviction is against the manifest weight of the evidence. After reviewing the parties' arguments, the record, and the applicable law, we find no merit to the assignments of error and affirm the judgment of the trial court.

BACKGROUND

{¶2} On August 15, 2022, a Scioto County Grand Jury returned an indictment alleging Steele had committed three counts in connection with the death of Cory Cantrell: Count 1, involuntary manslaughter, a first-degree felony, in violation of R.C. 2903.04(A) and R.C. 2903.04(C); Count 2, trafficking in a fentanyl-related compound, a fifth-degree felony in violation of R.C. 2925.03(A)(1) and R.C. 2925.03(C)(9)(a); Count 3, possession of a fentanyl-related compound, a fifth-degree felony, in violation of R.C. 2925.11(A) and R.C. 2925.11(C)(11)(a). After Steele pled not guilty at arraignment, the case proceeded to jury trial on June 5, 2023, and lasted four days.

{¶3} At the trial, the State called 14 witnesses: Christopher Boggs and Andrew Ness, corrections officers; Shane Blankenship, paramedic; Dr. Matthew Harcha, emergency room physician; Sergeant Brian Nolen; William Cantrell, the father of the deceased inmate; Dr. Shawn Swiatkowski, forensic pathologist; Toni Bryant, mother of Devin Kritzwiser, one of the inmates in cell 5; inmates Devin Kritzwiser, Jerrid Franklin, and Gary Watson; Captain Damon Roberts, jail administrator; Detective John Cart; Detective Sergeant Jodi Conkel. The defense called Captain Damon Roberts, Chief of Police Debby Brewer and Officer Jason Kontras. Steele did not himself testify.

{¶4} The evidence showed that on June 18, 2022, police officers picked up Steele in Portsmouth on an outstanding warrant. At the time officers approached Steele and he was taken to the jail, he was stumbling around, slurring his words, and acting a little erratic as if he were intoxicated. When

Steele was picked up on the warrant, officers found a straw that Steele said he had used to snort "boy," which is a street name for heroin, or heroin mixed with fentanyl.

{¶5} The police officers took Steele to the Scioto County Jail at approximately 4:55 p.m. When Steele exited the police cruiser in the sally port, Boggs and another officer took off Steele's handcuffs, and he was patted down. The "pat-down" included Steele's clothing, where officers looked for loose articles, weapons, and drug paraphernalia, etc. Then the corrections officers had Steele go through a body scanner, and those scans were reviewed by two officers. Those corrections officers did not notice anything abnormal on the body scan and so admitted Steele into the jail.

{¶6} Steele went to the dress-out room to exchange his civilian clothing for a jail-issued uniform. There, corrections officers had Steele take off all his clothes, then squat and cough to make sure he was not hiding contraband. They subjected him to a visual search and found no contraband. The corrections officers did not conduct a cavity search. After Steele changed into a regular jail uniform, the corrections officers moved Steele to holding cell 5. When Steele entered cell 5, Cory Cantrell, Devin Kritzwiser, Jerrid Franklin, and Gary Watson were already in the cell.

{¶7} Steele remained in cell 5 until 6:27 p.m. When Steele was released from cell 5, Cantrell, Kritzwiser, Franklin, and Watson remained. Sometime after "lights out" at the jail (approximately 10:00 p.m.), the inmates in holding cell 5 began banging on the cell doors and yelling for help. Corrections officers

responded, and found Cantrell to be blue, had no pulse, was not breathing, and thus, was completely nonresponsive. CPR and other efforts were performed to resuscitate Cantrell until an emergency squad removed him from the jail. Cantrell was then taken to Southern Ohio Medical Center where life-saving efforts continued, but he never revived. Cantrell was pronounced dead at the medical center. Dr. Shawn Swiatkoski, forensic pathologist, testified that Cantrell died by fentanyl intoxication, an opioid overdose. Cantrell was 23 years old and otherwise healthy but found with 12 nanograms per milliliter of fentanyl in his system. Also, his toxicology report revealed nor-fentanyl, a metabolite of fentanyl.

{¶8} When corrections officers searched cell 5 after Cantrell was removed, they found no contraband.

{¶9} Kritzwiser testified that except for 4 or 5 days prior to June 18, there were no drugs in holding cell 5, and no one was acting like they were on drugs on June 18. Kritzwiser said that when Steele came into the cell, Cantrell was in the back talking to Franklin. Kritzwiser saw Steele fidgeting with the back of his pants. Kritzwiser later said during his testimony that he saw Steele sitting down with his hands down his pants. Then Cantrell came up and said, “there was some dope in the pod now.” According to Kritzwiser, all the inmates in the cell used the drugs (which appeared to be clumped-up fentanyl, mixed up with a piece of paper) Steele provided to get high. Kritzwiser did a line and then was told something was going to be left, and then somebody was going to call his people to get some money. Kritzwiser gave Steele a phone number to call so

that Steele could ask for payment for the fentanyl. Cantrell also gave Steele a phone number to ask for money. Steele himself did not use any of the drugs, and when Steele left, there were still some drugs there.

{¶10} Kritzwiser snorted the fentanyl, and he got high afterwards. He watched Cantrell mix the drugs with water and snort it from a spoon, and that's when Cantrell started acting "crazy," nodding out, falling down and acting erratic. There were still some drugs in the cell after Cantrell overdosed, and "someone" put them up, or hid the drugs afterwards.

{¶11} Franklin and Watson also testified. Franklin said he saw Steele talking to Cantrell and Kritzwiser, who exchanged phone numbers. Franklin, who said he was "dope sick" on June 18 from withdrawals, said Cantrell gave him some fentanyl after Steele had been in the cell and was released. Watson heard Cantrell ask Steele if he "had anything?" and Steele said, "yes." Watson confirmed during his testimony that Steele meant he had "drugs." Watson testified that he saw Steele use the toilet shortly after Steele entered the cell. After Watson saw Steele use the toilet, Cantrell had drugs, which Cantrell used. Cantrell also used drugs after Steele left the cell. Watson did not see Steele holding drugs, but he did see Cantrell put the drugs, which were all melted into a paper, in a spoon. Watson heard both Kritzwiser and Cantrell tell Steele who he could contact outside the jail to pick up some money.

{¶12} William Cantrell, Cantrell's father, testified. Cantrell indicated he had received a phone call from Steele, stating that he owed Steele $150 because Steele had left something for Cantrell in the jail that Cantrell "could make money

on." William Cantrell told Steele he didn't pay Cantrell's debts. Sometime later, after Cantrell's death, Detective Sergeant Conkel called William Cantrell and told him his son has passed away at the jail. William Cantrell figured it was probably because of an overdose. William Cantrell did not know who was with Cantrell in the cell before he died.

{¶13} In cooperation with Conkel and other law enforcement, William Cantrell returned the call to Steele and told Steele to meet him at a carryout where he'd give him the $150. William Cantrell told Steele he drove a red Ford F-150. Ten minutes after William Cantrell got to the carryout with a detective, Steele showed up, then law enforcement came and surrounded Steele.

{¶14} Witness Toni Bryant, Kritzwiser's mother, testified that she received a call on June 18 from Steele, and she was familiar with his voice. Steele told Bryant she owed him $100. Steele told Bryant he had gotten arrested and before he made bail to bond out he left a package for Cantrell and Cantrell was supposed to give half of the package to Bryant's son, Kritzwiser. Bryant told Steele she wasn't going to pay, because her son had not called her and told her to pay. The day before, she had put money on Cantrell's books for the commissary at Kritzwiser's request. Steele told Bryant that if she wasn't going to pay for the package, then Steele would kill Kritzwiser. At the end of the call, Steele told Bryant he was going to call Cantrell's father to get the money for drugs.

{¶15} Detective John Cart testified at trial that when Steele was arrested after trying to pick up money from William Cantrell at the carryout, Cart took

Steele to the sally port for booking. Cart came out in front of the overhang in front of the jail and Steele asked for a cigarette. At that point, Steele said, "I'm fucked," "I'll have to take a plea, I'll have to take a plea." "I'm old; I'll be in jail forever." "I'll never get out; I'll have to take a plea." Conkel also confirmed these statements by Steele, and further, said that Steele admitted he had called William Cantrell, though he said he "may have" or "might of" called Bryant, he wasn't sure. At the time Steele was arrested at the carryout, he was found with substances that appeared to be fentanyl and heroin, that were later tested and were determined to be "fake drugs." When Steele was arrested at the carryout, he had in his possession the phone that was used to call William Cantrell.

{¶16} When the defense recalled Roberts to testify, he indicated that after Cantrell's death, the remaining inmates in cell 5 were scanned and Franklin and Watson had suspicious scans. Even so, corrections officers could not find any contraband on any of them. Roberts noted the inmates had about seven hours to have disposed of the contraband.

{¶17} Also, the defense called Chief of Police Debby Brewer, who reviewed the bodycam of the officers searching Steele from when he was arrested on the warrant, before being placed in the jail. Brewer indicated officers followed protocol by doing such things as looking in pockets, fanny packs, etc., and in fact, did find a straw on Steele's person. Brewer also testified that despite her experience, she had never seen an inmate insert a piece of folded notebook paper inside the rectum. Instead, it's usually wrapped in something to keep out the moisture because the moisture would disintegrate the paper else the person

hiding it could overdose. She admitted on cross, however, that the officers did not do cavity or strip searches of Steele at the time of arrest. She also said the drugs hidden in the rectum could "melt" because of body heat and acknowledged that Steele appeared to be under the influence of a narcotic when arrested. Of course, her testimony involves only whether Steele could have hidden the fentanyl in his rectum between the time he was approached by law enforcement and went to the jail but does not address whether he could have already had the drugs hidden when he was picked up on the warrant.

{¶18} Defense witness Officer Jesse Kontras testified he arrested Steele, and that he did not tell Steele he had a warrant before arresting him. Kontras did not believe Steele could have hidden the drugs in his rectum after he picked Steele up because Steele was handcuffed. Kontras' testimony was consistent with Brewer's in that Kontras had never during his career seen anyone shove a folded piece of paper up his rectum. On cross, Kontras said he was in the midst of training another officer during the call and that there was approximately a three to five minute time period where he took his eyes off of Steele.

{¶19} The jury found Steele not guilty of Count 1, involuntary manslaughter, guilty of Count 2, trafficking in a fentanyl-related compound, and guilty of Count 3, possession of fentanyl-related compound. The trial court merged Counts 2 and 3, and the State elected to proceed on sentencing for Count 2. The trial court also determined Steele was on post-release control at the time of the offense.

{¶20} The trial court therefore sentenced Steele to a term of 12 months in prison, and 848 days for violating of his post-release control, ordering the sentence of Count 2 to run consecutively to the post-release control sanction. Steele filed a timely notice of appeal.

ASSIGNMENTS OF ERROR

I. APPELLANT'S CONVICTIONS FOR TRAFFICKING IN A FENTANYL-RELATED COMPOUND AND POSSESSION OF A FENTANYL-RELATED COMPOUND SHOULD BE REVERSED BECAUSE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT A FINDING OF GUILT BEYOND A REASONABLE DOUBT.

II. APPELLANT'S CONVICTIONS ARE AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND SHOULD BE REVERSED.

{¶21} For ease of analysis, we address Steele's assignments of error in conjunction with one another. On appeal Steele contends his conviction should be reversed because there is insufficient evidence to support a finding of guilt beyond a reasonable doubt. Further, Steele asserts that his conviction is against the manifest weight of the evidence.

A. Law

1. Standard of Review

{¶22} In determining whether a criminal conviction is against the manifest weight of the evidence, an appellate court reviews the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed. *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), citing

State v. Martin, 20 Ohio App.3d 172, 175 (1st Dist. 1983). "Judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed by a reviewing court as being against the manifest weight of the evidence." *C.E. Morris Co. v. Foley Const. Co.*, 54 Ohio St.2d 279 (1978), syllabus.

{¶23} The weight and credibility of evidence are to be determined by the trier of fact. *State v. Kirkland*, 2014-Ohio-1966, ¶ 132. The trier of fact "is free to believe all, part or none of the testimony of any witness," and we "defer to the trier of fact on these evidentiary weight and credibility issues because it is in the best position to gauge the witnesses' demeanor, gestures, and voice inflections, and to use these observations to weigh their credibility." *State v. Dillard*, 2014-Ohio-4974, ¶ 28 (4th Dist.), citing *State v. West*, 2014-Ohio-1941, ¶ 23 (4th Dist.).

{¶24} In addition, "[a] verdict is not against the manifest weight of the evidence because the finder of fact chose to believe the State's witnesses." *State v. Chancey*, 2015-Ohio-5585, ¶ 36 (4th Dist.), citing *State v. Wilson*, 2014-Ohio-3182, ¶ 24 (9th Dist.), citing *State v. Martinez*, 2013-Ohio-3189, ¶ 16 (9th Dist.). Moreover, " '[w]hile the jury may take note of inconsistencies and resolve or discount them accordingly, * * * such inconsistences (sic.) do not render defendant's conviction against the manifest weight or sufficiency of the evidence.' " *State v. Corson*, 2015-Ohio-5332, ¶ 31 (4th Dist.), quoting *State v. Proby*, 2015-Ohio-3364, ¶ 42 (10th Dist.), citing *State v. Gullick*, 2014-Ohio-1642, ¶ 10 (10th Dist.).

{¶25} "When an appellate court concludes that the weight of the evidence supports a defendant's conviction, this conclusion necessarily includes a finding that sufficient evidence supports the conviction." *State v. Wickersham*, 2015-Ohio-2756, ¶ 27, citing *State v. Pollitt,* 2010-Ohio-2556, ¶ 15 (4th Dist.). A determination that a conviction is not against the manifest weight of the evidence is therefore dispositive of the issue of whether the evidence is sufficient to sustain a conviction. *Id.*, citing *State v. Lombardi,* 2005-Ohio-4942, ¶ 9 (9th Dist.). Therefore, in the instant case, we consider Steele's argument that his convictions are against the manifest weight of the evidence.

B. Analysis

{¶26} We note at the outset that although the jury found Steele guilty of trafficking and possession of a fentanyl-related compound, the trial court merged Steele's possession conviction with the trafficking conviction, and the State elected that Steele be sentenced on the trafficking count. Thus, if sufficient evidence supports appellant's trafficking conviction, an erroneous verdict on the merged count would be harmless. *State v. Whitehead,* 2022-Ohio-479, ¶ 78, citing *State v. Worley*, 2021-Ohio-2207 ¶ 73; *see State v. Williams*, 2012-Ohio-4693, ¶ 54 (4th Dist.) (because court does not impose sentence for merged offenses, defendant is not "convicted" of merged offenses and no "conviction" for appellate court to vacate). "Consequently, if we determine that sufficient evidence supports appellant's trafficking conviction, we need not address appellant's sufficiency argument regarding the possession offense." *Id.*

{¶27} R.C. 2925.03 provides: "(A) No person shall knowingly * * * (1) [s]ell or offer to sell a controlled substance or a controlled substance analog[.]" Further, the State must prove that "the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound." R.C. 2925.03(C)(9)(a). In addition, "[u]nder R.C. 2925.03(I), the definition of drug includes "any substance *that is represented* to be a drug". (Emphasis sic.) *State v. Brown*, 2024-Ohio-1333, ¶ 22 (3d Dist.).

{¶28} The term "offer" in R.C. 2925.03(A)(1) is not defined by statute. However, the Supreme Court of Ohio has defined the term "offer" to mean " 'to declare one's readiness or willingness' " to sell a controlled substance. *State v. Spivery,* 2023-Ohio-1603, ¶ 8 (12th Dist.), quoting *State v. Scott*, 69 Ohio St.2d 439, 440 (1982), quoting *Webster's New Collegiate Dictionary* (1976). Ohio appellate courts also define the term "offer" to mean " 'to declare one's readiness or willingness to sell a controlled substance or to present a controlled substance for acceptance or rejection.' " *Spivery* at ¶ 8, quoting *State v. Aldrich*, 2008-Ohio-1362, ¶ 21 (12th Dist). *See also, State v. Nucklos,* 2007-Ohio-1025*,* ¶ 29 (2d Dist.); *State v. Cabrales,* 2007-Ohio-857*,* ¶ 41 (1st Dist.)*; State v. Sheffey,* 2004-Ohio-2204*,* ¶ 13 (11th Dist.)*; State v. Drane,* 1993 WL 306567, *2, 1993 Ohio App. LEXIS 3259, *6 (6th Dist. June 30, 1993).

{¶29} As used in this statute, "selling" includes delivering, bartering, exchanging, transferring, gifting, or offering. *See* R.C. 2925.01(A) (incorporating R.C. 3719.01 definitions) and 3719.01(U) (defining "sale"). *State v. Socie,* 2022-Ohio-2526, ¶ 42 (6th Dist.); *See also, State v. Markley,* 2021-Ohio-3340, ¶ 47

(5th Dist.), citing *State v. Bradshaw,* 2018-Ohio-1105, ¶ 67 (4th Dist.); *State v. Day,* 2019-Ohio-4816, ¶ 24, n. 4 (4th Dist.); *State v. McIntosh,* 2018-Ohio-5343, ¶ 50 (4th Dist.). "This definition is broader than the common dictionary definition of 'sale.' " *Id.* quoting *Bradshaw* at ¶ 67, citing *State v. Adkins*, 80 Ohio App.3d 211, 221 (4th Dist.1992). " 'Ohio has adopted a definition of 'sale' of controlled substances that is broad in scope, calculated to include all transfers of controlled substances regardless of the presence or absence of consideration therefor.' " *Id.* quoting *Bradshaw* at ¶ 67, citing *State v. Albritton*, 1980 WL 351681, *6 (6th Dist. Dec. 26, 1980).

> Consequently, "[i]n a prosecution for offering to sell a controlled substance, the [S]tate is not required to prove that there was a sale or even that the controlled substance existed. A defendant may be convicted, even in the absence of a completed drug sale, if the defendant committed any element of drug trafficking incident to an aborted sale. * * * The term 'offer to sell' includes a person who offers to provide narcotics as a link in the chain of supply, and whether the person intends to act as agent for the seller or buyer is immaterial." Drug trafficking—Elements, Baldwin's Oh. Prac.Crim. L., Section 107:2 (3d ed.) (footnotes omitted) * * * "This essentially means that a person who knowingly transfers or offers to transfer narcotics is guilty of selling or offering to sell narcotics within the meaning of R.C. 2925.03." *State v. Latina*, 13 Ohio App.3d 182, 187, 468 N.E.2d 1139, 1146 (8th Dist.1984).

Bradshaw at ¶ 67.

{¶30} Whether someone acts knowingly is defined by R.C. 2901.22(B). R.C. 2901.22(B) provides:

> A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its

> existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

State v. Crumpton, 2024-Ohio-5064, ¶ 28 (4th Dist.). " ' "Furthermore, the issue of whether a defendant has knowingly made an offer to sell a controlled substance in any given case must be determined by examining the totality of the circumstances, including " 'the dialogue and course of conduct of the accused." ' " *McIntosh* at ¶ 51, quoting *State v. Burton*, 1995 WL 137054, *2 (2d Dist. Mar. 31, 1995), quoting *State v. Patterson*, 69 Ohio St.2d 445, 447 (1982). In addition, in proving its case, the State may rely on either direct or circumstantial evidence. "Circumstantial evidence and direct evidence inherently possess the same probative value and therefore should be subjected to the same standard of proof." *State v. Jenks*, 61 Ohio St. 3d 259 (1991), paragraph one of the syllabus. *State v. Wickersham*, 2015-Ohio-2756, ¶ 39 (4th Dist.); *see also*, *State v. Barnes,* 2020-Ohio-3943, ¶ 23-24 (4th Dist.).

{¶31} In the case sub judice, Steele argues that the evidence is insufficient. He points out that the State argued during its closing that Steele would have had the opportunity to conceal illegal drugs in his rectum while Portsmouth police officers were finishing another call prior to arresting Steele on the warrant. On the contrary, Steele asserts, Portsmouth Police Officer Kontras testified that he and Officer Gullett, the officers who arrested Steele, were able to see Steele throughout the entire encounter and did not believe Steele could have placed anything into his rectum during the arrest, because, for one thing, he was handcuffed.

{¶32} Steele also asserts that nothing was found on the scan, and the corrections officers did not see anything on him during his strip search.

{¶33} The record reflects that the corrections officers learned how to use the scanner simply by on-the-job training. Further, evidence was presented that even though the scanner is a tool used to stop the flow of contraband into the jail, the scanner is not 100% accurate because the scan can appear clear, but drugs are still brought into the jail. During the strip search, even though the corrections officers have the inmate lift their genitalia and the jail officers look at various parts of the body, the jail officers do not look inside the rectum area. Further, the State presented evidence that inmates carry drugs in their ears, mouths, rectums, and other parts of the body to avoid detection, even while they are on the street.

{¶34} Steele also posits that the State did not present physical evidence that Steele had concealed fentanyl or any other substance anywhere on or in his body. First, there was substantial circumstantial evidence that he did. The inmates testified that prior to Steele coming into the cell, there were no drugs there. After Steele came into cell 5, Watson heard Cantrell ask Steele whether Steele had "anything," and Steele said "yes." Watson confirmed at trial "anything" in this context meant "drugs." Then, shortly after Steele entered the jail he used the toilet and appeared to have his hands down his pants. After Steele had an interaction with Cantrell, Cantrell then had fentanyl and the inmates began to use it. The inmates in cell 5 testified at trial that there were no drugs in the cell, and then after they saw Steele and Cantrell talking, Cantrell had fentanyl. After that, the inmates used the fentanyl. The inmates testified that

Steele arranged for Kritzwiser and Cantrell to pay for the drugs. An autopsy was performed upon Cantrell and he had a lethal dose of fentanyl in his system.

{¶35} In instances where the weight of the drugs is not germane for enhanced penalties, courts have held that, "[u]ndoubtedly, a person can be convicted for offering to sell a controlled substance in violation of R.C. 2925.03(A)(1) without actually transferring a controlled substance to the buyer." *State v. Davis,* 2017-Ohio-495, ¶ 15 (12th Dist.), quoting *State v. Chandler*, 2006-Ohio-2285, ¶ 9. *See also, State v. Kolle,* 2022-Ohio-4322, ¶ 27 (4th Dist.) (where the State did not admit test results showing the identity of the substance recovered was methamphetamine, citing R.C. 2925.03(I), where "drug" is defined as any substance that is represented to be a drug."). Here, while the State did not recover a substance from cell 5, there is circumstantial evidence that Steele gave fentanyl to Cantrell, who in turn gave it to the other inmates. While there were no drugs recovered from cell 5 to be tested, Cantrell's toxicology report shows that Cantrell died of a fentanyl overdose after using a substance Steele gave him in cell 5. Further, Cantrell also made arrangements to pay Steele. In turn, Steele demanded payment from the relatives of the deceased and another inmate and showed up to collect the payment for the drugs with the cell phone used to make the arrangements.

{¶36} Steele argues further that his convictions are against the manifest weight of the evidence because certain aspects of the inmates' testimony were inconsistent with each other, and also with what they told Conkel earlier. Further, he points out that Kritzwiser's mother, Bryant, who also testified she received a

call from Steele, had a faulty memory and had a history of dishonesty. But the State points out that the jury was free to believe any or all of the evidence presented. We agree that the jury was in the best position to determine the credibility of the witnesses. Defense counsel carefully cross-examined the State's witnesses. The core of the inmates' testimony was consistent on most of the important points. Even had the inmate's testimony been inconsistent at times, Steele cannot explain away the phone call he made to William Cantrell, his appearing at the carryout with fake drugs, seeking payment, and his statements made to law enforcement after he was picked up in the instant case, such as "I'm fucked," "I'll have to take a plea, I'll have to take a plea." "I'm old; I'll be in jail forever." "I'll never get out; I'll have to take a plea." Further, Bryant's testimony about Steele's requests for payments was similar to William Cantrell's.

{¶37} Additionally, the fact that the jury acquitted Steele of involuntary manslaughter, shows that it carefully reviewed the evidence before it and did not clearly lose its way when determining he was guilty of the other two counts.

{¶38} The evidence showed that around 6:30 p.m. or so on June 18, Steele left the drugs with Cantrell. Steele called Cantrell's father for compensation and then appeared to collect at the carryout. Even if the inmates colluded in their testimony to set Steele up, Steele's calls to William Cantrell and Bryant refute that, and the calls he made to the parents were basically identical in nature. The lab results clearly showed Cantrell had a lethal dose of fentanyl is his system. The inmates all testified that fentanyl was not in the cell before Steele arrived, but in the cell after Steele arrived. Steele appeared to be

intoxicated and a straw was found on him that is used to administer the drug found in Cantrell's system. All of the jail personnel and law enforcement testified that the scanner is not foolproof, that despite the fact that most inmates are subjected to the scanner, drugs can still be found in the jail, and a body cavity search is often necessary to find drugs hidden in the rectum. That the fentanyl was inside a small piece of paper, had melted into the paper, was clumpy and had a certain color are all consistent with the fentanyl being hidden inside a body cavity. Finally, Steele's statements made to law enforcement are consistent with the jury's verdict.

{¶39} We therefore find that the manifest weight of the evidence supports the verdict, and therefore that the evidence is sufficient to support the conviction. Steele's assignments of error are without merit and we therefore affirm the trial court.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Scioto County Common Pleas Court to carry this judgment into execution.

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

Abele, J, and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, 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.