

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

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. 25CA7
 :
 v. :
 :
 TIMOTHY HOLLAWAY, : DECISION & JUDGMENT ENTRY
 :
 Defendant-Appellant. :

APPEARANCES:

Benjamin E. Fickel, Logan, Ohio, for appellant¹.

Jennifer Graham, Hocking County Prosecuting Attorney, and Robert N. Abdalla, Assistant Prosecuting Attorney, Logan, Ohio, for appellee.

CRIMINAL APPEAL FROM MUNICIPAL COURT
DATE JOURNALIZED: 7-15-26
ABELE, J.

{¶1} This is an appeal from a Hocking County Municipal Court judgment of conviction and sentence. Timothy Hollaway, defendant below and appellant herein, raises two assignments of error for review:

FIRST ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED TO THE PREJUDICE OF APPELLANT WHEN IT ALLOWED THE INTRODUCTION OF IMPROPER CHARACTER EVIDENCE."

¹ Different counsel represented appellant during the trial court proceedings.

SECOND ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED WHEN IT REFUSED TO GRANT THE APPELLANT'S CRIMINAL RULE 29 MOTION FOR ACQUITTAL."

{¶2} In March 2025, appellee filed a complaint against appellant for one count of public indecency in violation of R.C. 2907.09(B)(4), a first-degree misdemeanor. Appellant allegedly exposed himself to his 15-year-old step-granddaughter. Appellant entered a not guilty plea.

{¶3} Appellant filed a motion in limine, based on Evid.R. 106, 403, and 901, to exclude a video the victim recorded of appellant sucking her toes in a suggestive manner. After an in camera hearing, the parties (1) agreed to the video's authenticity and that it had not been tampered with, (2) proffered on the record the time frame of approximately three hours from the time of the video until the alleged incidence of public indecency, and (3) agreed that the victim could authenticate the video at trial. The court determined that the probative value outweighed the danger of unfair prejudice and denied the motion in limine.

{¶4} At appellant's June 6, 2025 jury trial, victim L.B. testified that on June 14, 2024, appellant, her step-grandfather, picked her up at her parents' home around 3:30 p.m. and smelled of alcohol. Appellant drove L.B. to the trailer he shared with his wife, L.B.'s grandmother, Kathy Nungester, to

celebrate Nungester's birthday. As part of the celebration, L.B. planned to wash and style her grandmother's hair and manicure her nails.

{¶5} Later that afternoon, L.B. spoke with appellant in a back room about her mental health and previous self-harm while her grandmother stayed in the living room. Appellant then "stood up and, as he was going to get a beer out of the fridge, he had put - - he had grabbed my foot and put it in his mouth." L.B. had been talking on the phone, and she "screen-recorded it and saved it to her drafts." Over appellant's objection, appellee played Exhibit A, the video L.B. recorded on her phone, for the jury.

{¶6} L.B. explained that, after the toe-sucking incident, she returned to the living room with her grandmother and they ordered pizza. The pizza arrived around 6:30 p.m., and L.B. stayed in the living room with her grandmother for about an hour, watching TV, while appellant returned to the back room. Appellant "got some dessert," which L.B. described as moonshine, and then "smoked a bowl" of marijuana, which L.B. could smell from the living room.

{¶7} L.B.'s grandmother prepared for bed, then returned to the living room around 9:00 p.m. where the three watched TV. Around 10:00 p.m., L.B. returned to the back room and Facetimed her friend, B.W. During the call, "Tim [appellant] had come

into the room after like 20 minutes" and exposed [his erect penis] to me. . . My phone was sitting in front of me and he had came to my left side and he was playing with himself in front of me."

{¶8} L.B. returned to the living room, but her grandmother had fallen asleep, so L.B. stayed in the bathroom for about 15-20 minutes and talked with B.W. and B.W.'s mother about her mother picking up L.B. L.B. heard a knock on the bathroom door, "[a]nd I am not completely sure what [appellant] said. It sounded like on the lines of okay, are you okay. I - I did not respond and he eventually walked away." L.B. waited about five minutes "to make sure [appellant] was not in the living room," then walked out the back door. B.W.'s mother picked up L.B. at the entrance to the trailer park and drove her to her parents' house.

{¶9} L.B.'s best friend, B.W., also 15 years old at the time, testified that on June 14, 2024, while she visited her father in Columbus, she Facetimed L.B.:

[Appellant] walked into the room and he kinda went into the corner [of the screen]. And I could see like his shoulder and a little bit of his lower half of his body, but not much, and he was shaking is what it looked like. And [L.B.'s eyes widened. . . And it really started to happen quickly when [L.B.] had picked up her phone. She had - - instead of flipping the camera, she had flipped her phone the other way. And I had saw [appellant] . . . had his pants down and he was touching himself inappropriately. [L.B.] ran to the doorway, hung up and then . . . called me back when she was in the restroom.

{¶10} B.W. "didn't want [L.B.] to be there," so she "added [her] mom into the call." After the call, B.W.'s mother drove to the entrance of the trailer park and picked up L.B. Later, B.W. spoke with L.B.'s parents and explained what she had seen that night.

{¶11} Hocking County Sheriff's Department Criminal Analyst Wesley Gilkey testified that appellee requested that he "put the [victim's] video in a fashion that was readable." Over appellant's objection, appellee then played Exhibit A. Gilkey testified that when he first saw the video, "the layout was confusing, that it was essentially looped backward. It was not in order of - - from start to finish." Gilkey placed the video "back in order so the beginning of the event was the true beginning of the video and the ending of the event was the true ending of the video," thereby creating Exhibit B. Over appellant's objection, appellee then introduced and played Exhibit B and Gilkey identified it as the edited video he described.

{¶12} The trial court overruled appellant's Crim.R. 29 motion for judgment of acquittal in which he argued that (1) no evidence existed to show that appellant attempted to lure the victim into sexual activity, and (2) no evidence existed to show that appellant received sexual gratification.

{¶13} Appellant testified that he picked up L.B. at her parents' home so L.B. could help her grandmother, his wife, "get dolled up" for her birthday. Appellant explained that when they arrived, L.B. entered the back room, smoked a cigarette, and talked on the phone. Appellant stated that he went outside, returned to the back room, and reached for his chair:

And it's a roll-away. I took a step back and I stepped on her foot. . . So I was kinda concerned. I sat down. I spun around. And she was kinda whining about the foot and the problem. And she goes - - well, we were - - I said, ah, okay. Is [everything] okay? And I was looking at her foot. I saw a little red line. And she goes, oh, grandpa, would you kiss my boo-boo? . . . She was whining around a little more and I said, okay, fine. So I reached down, kissed her boo-boo. That was it. . . Told her to quit trying to pull - - because I said stop to her twice. Actually, it was four times but - - according to the video twice, to kinda quit trying to pull at grandpa's heartstrings and stuff.

{¶14} Appellant testified that after that, he returned to the living room, where he shared pizza and watched a movie with his wife and L.B. Appellant said that he must have fallen asleep because he woke up around 10:30 p.m. as the movie credits rolled. Appellant looked for L.B., but could not find her. Later, after appellant's wife received a call from L.B.'s mother, L.B.'s father and brother knocked on their trailer door. "It was her father, Mike, and her brother Benjamin, and I walked out. It's like, okay, did you pick up [L.B.]. Well, I didn't get that whole sentence out and I got jumped by Mike."

{¶15} Appellant acknowledged that he consumed three beers that evening, but denied being alone with L.B. after dinner and during the movie, and stated that he "never got out of [his] chair." Appellant denied that he exposed himself to L.B. and stated that he is unable to maintain an erection due to the allergy medication Dupixent. Appellant denied drinking moonshine, but acknowledged that he smoked marijuana, and stated that he had a medical marijuana card.

{¶16} Appellant's wife, Kathy Nungester, testified that on June 14, 2024, appellant drove L.B. to their home, where L.B. washed and styled Nungester's hair and gave her a manicure and pedicure while appellant spent time in the back room working on a project. When appellant joined them in the living room, they ordered pizza around 7:00 p.m. While they waited for the pizza, appellant stayed in the back room, and L.B. "kept going back there." Nungester could hear them talking and laughing, so she "popped in every now and again in between doing dishes." Appellant told Nungester that L.B. "talk[ed] on the phone to somebody and they were talking about inappropriate stuff, and he had asked her to go out and see if [her] grandma needs anything."

{¶17} The pizza arrived around 8:00 p.m., and Nungester chose a movie for them to watch, but fell asleep before it ended. Nungester testified:

And the next thing I knew Tim [appellant] was waking me up to ask me where [L.B.] was, he said because he couldn't find her. And he said I woke up and she wasn't here. I thought she was back in my shop. And I said I don't know. In the meantime, my phone rang and it was my daughter calling to tell me that L.B. had come home and told her that he had exposed his junk, is what she called it.

{¶18} Nungester explained that shortly after that, L.B.'s father and brother arrived, and appellant stepped outside. Kathy heard appellant say, "Did you?" and "That was all he got out of his mouth because the next thing that happened, he headbutted him in the nose." After appellant fell back onto the porch floor, "they just kept pounding him," and after they called appellant a "pervert or something to that effect," they left. Nungester explained that appellant did not file a police report over the assault because once he heard what L.B. told her parents, he said he would have done the same thing as a father.

{¶19} Nungester testified that she was present during the duration of L.B.'s visit and did not notice anything unusual about her husband's behavior, nor did he appear to be intoxicated. L.B. acted "normal" that day, but Nungester acknowledged falling asleep during part of the evening. L.B. did not confide in her about these incidents, but L.B.'s father sent her the video. Nungester also stated that appellant had not had the ability to maintain an erection in over two years due to the allergy medication.

{¶20} After hearing the evidence, the jury found appellant guilty of first-degree misdemeanor public indecency in violation of R.C. 2907.09(B)(4). Subsequently, the trial court proceeded to sentencing. The court indicated that it found appellant's testimony to be incredible and lacked remorse. The court also observed that appellant had recently tested positive for methamphetamine, marijuana, and alcohol while serving a community control term for a DUI conviction, and the court then deferred sentencing to research the sexual offender classification.

{¶21} At the June 25, 2025 sentencing hearing, L.B. stated that appellant and her grandmother ruined her life and took "what feels like everything." Noting that she "was glad it happened to her" rather than her little sister, L.B. said, "You made me really [think] death is an amazing option, but that gives you the justice I wanted. In the end, all of us, everyone got their justice."

{¶22} L.B.'s father, Michael Brown, testified that he had only seen appellant sober 5 times in 11 years and appellant's actions "drove a wedge into this whole family," and his kids no longer have a grandmother because she "decided to support you in your lies for the last year." Brown also warned appellant that when he finished his sentence, "Don't touch kids. Don't pull your penis out on kids. Leave kids alone. . . Get your stuff

together. You live around 60 kids in a trailer park. . . no one needs that in their life. Get help for yourself."

{¶23} In allocution, appellant stated:

I want to apologize to my wife, the victim and their families for the trouble I've caused. I want to apologize to the Court. If I may, I'm going to go through the programs, clean, sober. I don't want to come in front of this Court anymore. I promise that. I am truly sorry.

{¶24} The trial court then sentenced appellant to (1) serve a 180-day jail sentence with 80 days suspended and credit for 49 days, (2) pay a \$50 fine, (3) serve a community control term from June 25, 2025 to June 24, 2028, (4) refrain from alcohol or drug possession or use, (5) have no contact with the victim, and (6) register as a Tier 1 Sex Offender. This appeal followed.

I.

{¶25} In his first assignment of error, appellant asserts that the trial court erred when it allowed appellee to introduce character evidence in violation of Evid.R. 404(B). Appellee, however, contends that appellant failed to object to the introduction of the video on Evid.R. 404(B) grounds at or prior to trial, and the introduction of the video did not constitute plain error.

{¶26} Generally, "the admission of evidence lies within the broad discretion of the trial court, and a reviewing court should not disturb evidentiary decisions in the absence of an

abuse of discretion that has created material prejudice.” *State v. Conway*, 2006-Ohio-2815, ¶ 62. However, “the admissibility of other-acts evidence pursuant to Evid.R. 404(B) is a question of law” that is reviewed de novo. *State v. Hartman*, 2020-Ohio-4440, ¶ 22. Yet, some aspects of the analysis require the trial court's discretion, such as addressing whether the evidence is prejudicial. *Id.* at ¶ 30. Thus, an appellate court applies a mixed standard of review to address the admission of other-acts evidence. *Id.* While a de novo review requires this court to review the matter anew, an abuse-of-discretion standard requires us to determine whether the trial court's decision was unreasonable, arbitrary, or unconscionable. *State v. Baker*, 2021-Ohio-272, ¶ 27 (12th Dist.).

{¶27} In the case sub judice, as appellee points out, appellant failed to challenge the video pursuant to Evid.R. 404(B). Thus, we review the record for plain error. Generally, errors or defects that affect substantial rights may be noticed, even though they were not brought to a trial court's attention. Crim.R. 52(B). A defendant has the burden to satisfy the plain error rule, and a reviewing court may review the entire record when it considers the effect of any error on substantial rights. *State v. Delawder*, 2012-Ohio-1923, ¶ 22 (4th Dist.), citing *State v. Davis*, 2007-Ohio-3944, ¶ 22 (4th Dist.). For a reviewing court to find plain error, (1) there must be an error,

i.e., "a deviation from a legal rule," (2) the error must be plain, i.e., "an obvious defect in the trial proceedings," and (3) the error must have affected "substantial rights," i.e., it must have affected the outcome of the proceedings. *Delawder, id., State v. Barnes*, 2002-Ohio-68. Finally, even if a reviewing court finds plain error, the error should only be corrected when it "seriously affects the fairness, integrity, or public reputation of judicial proceedings" or when necessary "to prevent a manifest miscarriage of justice." *State v. Bond*, 2022-Ohio-4150, ¶ 35; *State v. Haughn*, 2025-Ohio-5405, ¶ 46 (4th Dist.) (correction of the error is necessary in this case to prevent a manifest miscarriage of justice.)

{¶28} Evidence of a person's character is generally inadmissible to prove that the person acted in conformity therewith on a particular occasion. Evid.R. 404(A). Likewise, "[e]vidence of any other crime, wrong or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Evid. R. 404(B). However, as noted above, Evid.R. 404(B) does allow "evidence of the defendant's other crimes, wrongs, or acts to be admitted *for other purposes*, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." *Hartman*, 2020-Ohio-4440, ¶ 22 (Emphasis added.). "The key is that the

evidence must prove something other than the defendant's disposition to commit certain acts." *Id*; *State v. Durbin*, 2025-Ohio-5724, ¶ 41 (1st Dist.).

{¶29} When evidence is challenged as inadmissible other-acts evidence, a trial court must perform a three-step analysis:

The first step is to consider whether the other acts evidence is relevant to making any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. Evid.R. 401. The next step is to consider whether evidence of the other crimes, wrongs, or acts is presented to prove the character of the accused in order to show activity in conformity therewith or whether the other acts evidence is presented for a legitimate purpose, such as those stated in Evid.R. 404(B). The third step is to consider whether the probative value of the other acts evidence is substantially outweighed by the danger of unfair prejudice. See Evid.R. 403.

State v. Williams, 2012-Ohio-5695; ¶ 19-20; see also *Hartman* at ¶ 24-33; *State v. Knuff*, 2024-Ohio-902, ¶ 116.

{¶30} As noted above, in the case at bar appellant objected to the admission of these exhibits, both in his motion in limine and at trial. However, as appellee points out, Evid.R. 103(A) provides:

Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and . . . a timely objection or motion to strike appears of record, stating the *specific ground* of objection, if the specific ground was not apparent from the context. . . (Emphasis added.)

{¶31} In the case sub judice, appellant's motion in limine sought to exclude the videos based on Evid.R. 106, 403, and 902. Appellant's Evid.R. 403 argument stated, "There is very little probative value to the video as it is unclear who is in the video and what it shows." And, as appellee notes, during trial, although counsel renewed the objections each time appellee introduced the videos or played them for the jury, counsel did not object to the videos pursuant to Evid.R. 404(B) and did not seek an instruction on the use of the videos with regard to Evid.R. 404(B). Finally, as appellee observes, appellant, himself, testified that his actions in the video were "normal" and depicted him kissing the victim's "boo-boo."

{¶32} "Where a party advances certain grounds for an objection to the admission of evidence, or, when asked by the trial court to state the specific ground of his objection, such party will be held to have waived all grounds for the objection other than those so advanced or specified." *Yuin v. Hilton*, 165 Ohio St. 164 (1956), citing 1 Wigmore on Evidence (3 Ed.), 339, Section 18. "This represents an application of the broad principle that, in the absence of a statute providing otherwise, a party cannot rely upon an error in the trial which could have been prevented by the trial judge if such party had requested the trial judge to do so." *Id.*, citing *State v. Tudor*, 154 Ohio St. 249, 257 (1950). Thus, a defendant may not on appeal urge a

new ground for his objection because a party that objected to the admission of evidence must state the specific ground of objection at the time the trial court makes an evidentiary ruling. Evid.R. 103(A)(1); *State v. Bentz*, 2017-Ohio-5483, ¶ 127 (3d Dist.); *State v. Hernandez*, 2018-Ohio-5031, ¶ 4 (8th Dist.) (because Hernandez objected based on relevancy, failed to object based on Evid.R. 404(B), and failed to ask the court to instruct the jury on the use of other acts evidence under Evid.R. 404(B), Hernandez forfeited the right to argue Evid.R. 404(B) as a ground for appeal).

{¶33} In the case sub judice, we believe that because appellant did not adequately specify the particular ground for the objection at trial forfeits the issue and limits our review to plain error. See *State v. Tibbetts*, 92 Ohio St.3d 146, 160-161 (2001) (when no Evid.R. 404 objection made, defendant forfeits issue and court is limited to plain-error review). Thus, appellant must demonstrate that an error occurred, that the error was obvious, and a reasonable probability exists that the error resulted in prejudice, meaning that the error affected the outcome of the trial. *State v. McAlpin*, 2022-Ohio-1567, ¶ 66; *Knuff* at ¶ 117.

{¶34} In the case sub judice, appellant did not demonstrate that the trial court erred regarding the admission of the exhibits because the trial court did not admit them to prove

appellant's character or to show his conformity with that character. Appellee argues that it introduced the evidence in question "to show sexual arousal or gratification." Even if we assume that the evidence arguably constituted improper other acts evidence, appellee could use the videos to prove that specific intent. R.C. 2907.09 (B) provides:

No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

. . .

(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

{¶35} A public indecency charge, while possessing the mens rea of "knowingly," requires proof of a specific intention: the exposing of private parts "with the purpose of personal sexual arousal or gratification." R.C. 2907.09(B)(4); *State v. Schmidt*, 2022-Ohio-4138, ¶ 33 (12th Dist.). A person acts purposefully "when it is a specific intention to cause a certain result" R.C. 2901.22(A). Because the statute requires appellee to prove that appellant exposed private parts "with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity," other acts evidence may be admissible. See *State v. Williams*, 2012-Ohio-5695 (evidence that Williams targeted teenage males with no father figure to

gain their trust and groom them for sexual activity with the intent of sexual gratification may be admitted to show the plan of the accused and the intent for sexual gratification.); *State v. Croy*, 2024-Ohio-4638, ¶ 29 (5th Dist.) (manner of defendant's contact with each child was sufficient to allow the court to infer that appellant touched the children for sexual gratification.)

{¶36} In the case at bar, no plain error is apparent from the admission of these videos. We do not believe that appellee used the videos to simply show appellant's character, and appellant does not otherwise explain how the videos prejudiced him at trial. Thus, we conclude that appellant did not establish plain error.

{¶37} Accordingly, based upon the foregoing reasons, we overrule appellant's first assignment of error.

II.

{¶38} In his second assignment of error, appellant asserts that the trial court erred when it refused to grant appellant's Crim.R. 29 motion for judgment of acquittal.

{¶39} Under Crim.R. 29(A), a court "shall order the entry of a judgment of acquittal of one or more offenses * * * if the evidence is insufficient to sustain a conviction of such offense or offenses." Because a Crim.R. 29 motion tests the sufficiency of the evidence, the standard of

review used to assess a Crim.R. 29 motion is the same standard for a sufficiency of the evidence claim. *State v. Johnson*, 2016-Ohio-867, ¶ 9 (4th Dist.), citing *State v. Miley*, 114 Ohio App.3d 738, 742 (4th Dist. 1996); *State v. Fox*, 2015-Ohio-3892, ¶ 29 (4th Dist.). “In reviewing the trial court's decision on a Crim.R. 29(A) motion, we conduct a de novo review and will not reverse unless clearly contrary to law.” *Johnson* at ¶ 10, citing *State v. Umphries*, 2003-Ohio-599, ¶ 6 (4th Dist.). As explained below under the standard of review for sufficiency-of-the-evidence arguments, we accord no deference to the trial court and instead conduct our own independent review of the evidence. *State v. Kuntz*, 2024-Ohio-1680, ¶ 16 (4th Dist.).

{¶40} “An appellate court's function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt.” *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus, superseded by state constitutional amendment on other grounds, *State v. Smith*, 80 Ohio St.3d 89 (1997). Thus, “[t]he relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could

have found the essential elements of the crime proven beyond a reasonable doubt.” *Id.* “In deciding if the evidence was sufficient, we neither resolve evidentiary conflicts nor assess the credibility of witnesses, as both are functions reserved for the trier of fact.” *State v. Williams*, 2011-Ohio-6267, ¶ 25 (1st Dist.); *State v. Bennett*, 2019-Ohio-4937, ¶ 46 (3d Dist.).

{¶41} “ ‘A conviction based on insufficient evidence constitutes a denial of due process.’ ” *State v. Pride*, 2011-Ohio-6055, ¶ 11 (10th Dist.), quoting *State v. Rawls*, 2004-Ohio-836, ¶ 25 (10th Dist.), citing *Thompkins*, 78 Ohio St.3d at 386. Although we apply the same standard when we review a Crim.R. 29 motion and a sufficiency of the evidence claim, see *State v. Abdullahi*, 2024-Ohio-418, ¶ 22 (10th Dist.), citing *State v. Fugate*, 2013-Ohio-79, ¶ 5 (10th Dist.), the procedural distinction between a Crim.R. 29(A) motion and a sufficiency of the evidence claim controls the scope of our review. In reviewing the denial of a Crim.R. 29(A) motion, “we consider only the evidence presented in the State's case-in-chief.” *State v. Stokes*, 2016-Ohio-612, ¶ 22 (2d Dist.).

{¶42} In the case at bar, appellant contends that appellee failed to prove that at the time of the offense, L.B. was a minor and not the spouse of appellant, both essential elements of R.C. 2907.09(B)(4). Although during L.B.'s testimony appellee seemingly did not ask her age at the time of the

incident, during her friend B.W.'s testimony, she stated that when she and L.B. Facetimed, they were "talking about the things 15-year-olds talk about." Moreover, L.B. identified appellant as her step-grandfather and Kathy N. as her grandmother. Thus, a trier of fact could infer that L.B. is not appellant's spouse. While the better practice is to explicitly elicit testimony and evidence that directly establishes every element of a criminal offense, it appears that evidence was adduced to address each element.

{¶43} In the case sub judice, in addition to the video, appellee presented testimony from the victim, L.B., and her friend, B.W., who witnessed the public indecency. L.B. testified that appellant had been drinking and "exposed himself" to her, and she observed appellant "touching . . . playing with himself." Moreover, L.B. testified that when appellant engaged in this behavior, his penis was erect, and he "jerked it like a couple of times." B.W. also testified that appellant "touch[ed] himself inappropriately." After our review of the record, viewing the evidence in a light most favorable to appellee, we conclude that appellee adduced sufficient evidence that appellant committed public indecency in violation of R.C. 2907.09(B)(4). Therefore, the trial court did not err when it denied appellant's Crim.R. 29(A) motion for judgment of acquittal.

{¶44} Accordingly, based on the foregoing reasons, we overrule appellant's second assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that 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 the Hocking County Municipal 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 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 set forth in 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 the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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

For the Court

BY: _____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.