

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
GUERNSEY COUNTY, OHIO

STATE OF OHIO,

Plaintiff - Appellee

-vs-

ADEN S. KING,

Defendant - Appellant

Case No. 26CA000005

Opinion & Judgment Entry

Appeal from the Cambridge Municipal
Court, Case No. CRB2500541

Judgment: Reversed and Remanded

Date of Judgment: August 17, 2026

BEFORE: William B. Hoffman, Craig R. Baldwin, and David M. Gormley, Judges

APPEARANCES: William H. Ferguson (Cambridge Law Director), Cambridge, Ohio, for Plaintiff-Appellee; James S. Sweeney, Powell, Ohio, for Defendant-Appellant.

Gormley, J.

{¶1} Defendant Aden King pled no-contest in the trial court to a misdemeanor charge of unlawful sexual conduct with a minor. That crime can be a “sexually oriented offense” as that term is defined in R.C. 2950.01(A), but King’s offense would qualify for that designation only if, in the words of R.C. 2950.01(A)(2), the minor with whom he had sexual conduct “did not consent” to it.

{¶2} A minor who is less than 16 years old can never consent to sexual conduct, the trial judge found, and so King’s offense — which took place with a minor who was several months shy of age 16 — was necessarily, in the judge’s view, a sexually oriented offense. King was therefore directed by the trial judge to comply with the sex-offender registration and verification requirements that apply to Ohio sex offenders under R.C. Chapter 2950.

{¶3} King argues here the trial court was mistaken in its view about the inability of minors to consent to sexual conduct. We agree with King that the General Assembly’s “did

not consent” language in R.C. 2950.01(A)(2) indicates that Ohio lawmakers believe that a minor — even one under age 16 — can in fact consent to sexual conduct with another. For that reason, we reverse the trial court’s decision and remand the case with a directive that the trial judge determine whether the minor in King’s case did or did not consent.

The Key Facts

{¶4} The R.C. 2907.04(A) criminal charge to which King pled no contest alleged that King, when he was 19 years old, engaged in sexual conduct with a minor who was about three years younger than he was. (The charge was a first-degree misdemeanor because King, at the time of the alleged conduct, was, in the words of R.C. 2907.04(B)(2), “less than four years older than the other person.”)

{¶5} After the trial judge accepted King’s plea and made a guilty finding, the judge held a hearing to determine whether King should be required to register as a sex offender under Ohio law. The judge heard testimony both from King and from the minor with whom King had engaged in sexual conduct, but the judge then found that anyone under the age of 16 is “legally incapable of consenting” to that conduct. For that reason, the judge found that R.C. 2950.01(A)(2)’s “did not consent” exception that might exempt an offender like King from having to register as a sex offender could never apply to a case like his involving sexual conduct with a minor under age 16, and the judge therefore ordered King to register as a tier-I sex offender. King now appeals.

The Trial Court Should Have Determined Whether the Minor Did or Did Not Consent

{¶6} King argues here that the trial court erred by ordering him to register as a sex offender. Rather than concluding that no person under age 16 can consent to sexual conduct,

the trial judge should, in King's view, have weighed whether this particular minor did or did not consent to the conduct. We agree.

{¶7} According to R.C. 2950.01(A)(2), the crime of unlawful sexual conduct is a sexually oriented offense — and therefore one to which Ohio's sex-offender registration and verification requirements apply — if the offender was “less than four years older than the other person” who engaged in the sexual conduct and if that other person “did not consent” to that conduct. (That “other person” will always be at least 13 but less than 16 years old, according to the elements of the offense that are spelled out in R.C. 2907.04(A), so any minor who may or may not have consented to an alleged act of unlawful sexual conduct under the statute will always be a person who is 13, 14, or 15 years old.)

{¶8} The parties in this case agree that King was less than four years older than the other person with whom he engaged in sexual conduct (and certainly the prior-conviction language in R.C. 2907.04(B)(4) and R.C. 2950.01(A)(2) is not relevant in this case), so the sole question for the trial court was whether that other person consented to the sexual conduct alleged. The trial judge never resolved that question because the judge found that no person under age 16 can consent to sexual conduct.

{¶9} That view was recently considered and rejected by the Second District in *State v. Halderman*, 2026-Ohio-853, ¶ 12 (2d Dist.) (“R.C. 2950.01(A)(2) necessarily focuses on whether the victim consented as a matter of fact”). We agree. As the Second District explained in that case, “Every victim of unlawful sexual conduct with a minor is under age 16. If that fact made consent impossible, the consent inquiry in R.C. 2950.02(A)(2) would be meaningless.” *Id.*

{¶10} R.C. 2950.01(B)(2)(b) also supports our view that consent to sexual conduct by what R.C. 2907.04(A) calls “the other person” is a factual inquiry and cannot be ruled out just because that other person was under age 16. We say that because excluded from the definition of the term “sex offender” under R.C. 2950.01(B)(2)(b) is anyone convicted of a sexually oriented offense if “the offense involves consensual sexual conduct,” if the victim of the offense was at least 13 years old, and if the offender was not more than four years older than that victim.

{¶11} In short, the R.C. 2907.04(A) crime at issue always involves an “other person” who is at least 13 and less than 16 years old, and the General Assembly has called for trial courts to treat offenders differently depending on whether that other person did or did not consent to the sexual conduct at issue. Multiple courts agree that trial courts in cases like this one must determine whether the 13-, 14-, or 15-year-old “other person” did or did not consent to the sexual conduct in which that person and the offender engaged. *See, e.g., State v. Metzger*, 2011-Ohio-3749, ¶ 27 (11th Dist.) (“Without resolving whether [the victim] consented to the sexual conduct . . . the trial court is unable to fulfill its obligation under the statute . . . if there was no consent, the statute requires the classification of Tier 1 to be made. If there was consent, appellee would be exempt from registering under R.C. 2950.01(B)(2)(b)"); *State v. Meade*, 2010-Ohio-2435, ¶ 27 (12th Dist.) (“Were we willing to accept the state’s argument, the wording employed by the legislature in R.C. 2950.01(B)(2)(b) would be rendered nonsensical. . . . Had the legislature intended to limit victim consent to age 16, R.C. 2950.01(B)(2)(b) presumably would have been crafted to reflect such a limitation”).

{¶12} For these reasons, the trial court should have determined whether the minor consented to the sexual conduct in which she engaged with King, and that determination in

turn would then dictate whether King should be required to register as a sex offender. We therefore reverse the trial court's decision designating King as a tier-I sex offender, and we remand the case to the trial court so the judge there can determine whether the minor in this case did or did not consent to the conduct. Any court costs are waived.

By: Gormley, J.;

Hoffman, P.J. and

Baldwin, J. concur.