

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

STATE OF OHIO

Plaintiff-Appellee

DE-SHAWNAY DANIELS

Defendant-Appellant

Case No. 2025-CA-00142

Opinion And Judgment Entry

Appeal from the Canton Municipal Court,
Case No. 2025 CRB 01127

Judgment: Affirmed

Date of Judgment Entry:
September 23, 2026

BEFORE: Craig R. Baldwin, Kevin W. Popham, and David M. Gormley, Judges

APPEARANCES: Jason Reese, Kate Lukosavich, Beau Wenger, for Plaintiff-Appellee;
Catherine R. Meehan, for Defendant-Appellant

OPINION

Popham, J.,

{¶1} Appellant De-Shawnay Daniels ("Daniels") appeals her convictions for two counts of Endangering Children following a jury trial in the Canton Municipal Court, Stark County, Ohio. Daniels argues that insufficient evidence supports her convictions and that her convictions are against the manifest weight of the evidence. For the reasons that follow, we disagree and affirm.

Facts and Procedural History

{¶2} B.C. is an eight-year-old girl who suffers from cerebral palsy and is unable to walk, talk, eat, or move independently. B.C.'s mother ("Mother") has provided for B.C.'s around-the-clock care throughout B.C.'s life.

{¶3} Mother experienced an emergency involving her older daughter, which required a stay in the intensive care unit of a local hospital. Because B.C. required respite care during this time, arrangements were made through the Stark County Board of Developmental Disabilities ("the Agency"). After confirming that Daniels had the required certifications to provide care for B.C., the Agency referred the family to Daniels for respite care.

{¶4} Julie Willis, a Service Support Administrator with the Agency, testified that she assisted in selecting Daniels, who owns For Betty's Angels, to provide B.C.'s respite care.

{¶5} When Mother dropped B.C. off at Daniels's residence, Mother provided Daniels with B.C.'s medications, medical equipment, and car seat. Mother testified that B.C. was suffering from no injuries before entering Daniels's care. B.C. remained in Daniels's care from June 21 through June 24, 2024.

{¶6} During B.C.'s respite stay, she experienced a problem with her feeding tube that required Daniels to take B.C. to Mercy Cleveland Clinic ("Mercy"), which was unable to address the problem and referred Daniels to Akron Children's Hospital. Because Mercy could not transport B.C. to Akron Children's Hospital, Daniels transported B.C. in Daniels's vehicle.

{¶7} Willis testified that, following B.C.'s release from Akron Children's Hospital, Daniels informed her that a MUI (Major Unusual Incident) report needed to be filed concerning B.C.'s hospital visit and a bruise that B.C. sustained from the safety locks inside her car seat while leaving the hospital.

{¶8} When B.C. returned to Mother's care, B.C. was crying. Mother testified that B.C. returned at approximately 3:45 p.m. (June 24, 2024), but she did not check B.C.'s diaper until after 8:00 p.m., at which time she noticed a bruise on the side of B.C.'s body that

appeared similar to a diaper rash. Mother immediately contacted the social worker and was instructed to take B.C. to the emergency room. Mother also noticed that B.C.'s leg was "wobbly" when she attempted to pick B.C. up.

{¶9} B.C. was subsequently diagnosed with extensive bruising and a fractured leg.

The Investigation

{¶10} Detective Dennis Betz of the Stark County Sheriff's Office investigated the matter following a referral from the Agency. Detective Betz testified that, on June 27, 2024, he received a call from the Canton Police Department regarding an individual who had sustained injuries believed to have resulted from abuse or neglect.

{¶11} Detective Betz interviewed Daniels regarding B.C.'s injuries. Daniels told Detective Betz that, following the visit to Akron Children's Hospital, hospital staff placed B.C. back in the vehicle.

{¶12} Daniels believed the injury to B.C.'s buttock resulted from the seat belt because the car seat harness was too small to fit around B.C. Regarding the fractured tibia, Daniels stated that she did not know how the injury occurred. Daniels explained to Detective Betz that she transported B.C. between the vehicle and the hospital in a wagon.

{¶13} Detective Betz testified that Daniels was cooperative during the investigation and provided her daily care logs, which documented B.C.'s feedings, diaper checks and changes, and sleep schedule.

Expert Testimony

{¶14} Both sides presented expert testimony.

{¶15} The State called Dr. Paul McPherson, chief of the Child Abuse Clinic at Akron Children's Hospital, as an expert in general pediatrics and child-abuse pediatrics. B.C.'s case

was referred to Dr. McPherson, for unusual skin findings, possible burns or bruising, and skin breakdown, when she was brought to Akron Children's Hospital on June 24, 2024. Dr. McPherson reviewed the matter for possible abuse or neglect.

{¶16} Dr. McPherson testified that B.C.'s primary injuries consisted of injuries to her left buttock, swelling in her vaginal area, and a fracture of the lower right leg near the knee. Photographs of the injuries were admitted into evidence.

{¶17} Dr. McPherson concluded that B.C.'s skin injuries resulted from poor hygiene. He also testified that B.C.'s underlying medical conditions made her susceptible to fractures. According to Dr. McPherson, the fracture was likely caused by B.C. being maneuvered while in respite care. He noted that B.C. had no prior history of fractures and testified that there had been no apparent issues before she entered respite care.

{¶18} Dr. McPherson further testified that he ruled out Akron Children's Hospital as the location where the fracture occurred because B.C. was already experiencing pain when she arrived at the hospital. He reviewed Daniels's daily care logs and testified that B.C.'s skin injuries would have been visible to anyone appropriately checking on her. Dr. McPherson concluded that B.C.'s injuries resulted from a lack of proper care while she was in Daniels's care.

{¶19} The defense called Dr. Steven Roderick Guertin as an expert in child abuse. Dr. Guertin reviewed the records related to B.C.'s case and concluded that the injury identified as a bruise was actually a burn. He opined that the injury was likely caused by a seat belt, which he described as a well-known and well-documented form of injury during the summer.

{¶20} Dr. Guertin testified that he concluded the injury was not a bruise because bruises do not peel. He observed a well-defined pattern on one of B.C.'s thighs that corresponded to a similar pattern on her buttock. Dr. Guertin opined that the "sharp demarcations like that ... indicated that it is a contact burn." 2 Tr. at 43-44.

{¶21} Dr. Guertin further testified that his review of B.C.'s medical records showed that she had been evaluated by burn specialists while hospitalized and that those specialists agreed the injury was a burn.

Verdict and Sentence

{¶22} A jury convicted Daniels of both counts charged in the complaint - Count 1: Child Endangerment by creating a substantial risk to the health or safety of B.C. by violating a duty of care pursuant to R.C. 2919.22(A) and Count 2: Child Endangerment by abusing the child pursuant to R.C. 2919.22(B)(1).

{¶23} On September 30, 2025, the trial court sentenced Daniels to sixty days in jail on each count, with the sentence to begin on January 5, 2026. The sentences were ordered to be served concurrently. On November 4, 2025, the trial court granted Daniels's motion to stay execution of her sentence pending appeal.

Assignments of Error

{¶24} Daniels raises two assignments of error for our consideration,

{¶25} "I. APPELLANT'S CONVICTIONS WERE NOT SUPPORTED BY SUFFICIENT EVIDENCE."

{¶26} "II. APPELLANT'S CONVICTIONS WERE AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

I.

{¶27} In her first assignment of error, Daniels contends that the State failed to establish with sufficient evidence she acted recklessly in her care of B.C. We disagree.

Standard of Review— Sufficiency of the Evidence

{¶28} A challenge to the sufficiency of the evidence presents a question of law that we review de novo. *State v. Walker*, 2016-Ohio-8295, ¶ 30. The relevant inquiry is whether, after viewing the evidence in a light most favorable to the State, any rational trier of fact could have found the essential elements of the offense proven beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus.

{¶29} A conviction will be reversed for insufficient evidence only when reasonable minds “could not reach the conclusion reached by the trier-of-fact.” *State v. Ketterer*, 2006-Ohio-5283, ¶ 94.

Applicable Law

{¶30} Daniels was convicted of Endangering Children under R.C. 2919.22(A) – [duty of care], which provides:

(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a child with a mental or physical disability under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support.

{¶31} Daniels was also convicted of Endangering Children under R.C. 2919.22(B)(1) – [abuse], which provides:

(B) No person shall do any of the following to a child under eighteen years of age or a child with a mental or physical disability under twenty-one years of age:

(1) Abuse the child.

{¶32} Recklessness is the required mental state for a violation of R.C. 2919.22. *State v. McGee*, 79 Ohio St.3d 193 (1997); *State v. Adams*, 62 Ohio St.2d 151 (1980); *State v. O'Brien*, 30 Ohio St.3d 122 (1987); R.C. 2901.21(B). Therefore, we apply a recklessness mens rea to both charges in the case.

{¶33} R.C. 2901.22(C) provides:

A person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

{¶34} "Substantial risk" means "a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist." R.C. 2901.01(A)(8). "Abuse" means any act that causes physical or mental injury that harms or threatens to harm the child's health or welfare. R.C. 2151.031(E).

{¶35} The Eighth District has explained that the legislature intentionally based the definition of recklessness on the likelihood, rather than the probability, of a particular result. *State v. Hardman*, 2016-Ohio-498, ¶ 38 (8th Dist.), citing *State v. Young*, 2005-Ohio-3584 (8th Dist.). "Something is 'probable' when there is more reason for expectation or belief than not,

whereas something is 'likely' when there is merely good reason for expectation or belief." *Id.*; *State v. Sheppard*, 2025-Ohio-2747, ¶ 31 (5th Dist.).

{¶36} Thus, the defendant's awareness of the likelihood of the result is central to the recklessness inquiry. "If the result is probable, the person acts "knowingly;" if it is not probable, but only possible, the person acts "recklessly" if he chooses to ignore the risk." *In re Judicial Campaign Complaint Against Emrich*, 75 Ohio St.3d 1517, 1519 (1996), quoting *State v. Edwards*, 83 Ohio App.3d 357, 361 (10th Dist. 1992); *State v. Clay*, 2008-Ohio-6325, ¶ 32 (Lanzinger, J., concurring); *Sheppard* at ¶ 31; *State v. Ashcraft*, 2023-Ohio-2378, ¶ 23 (5th Dist.). In other words, a person acts recklessly when the person is aware of a substantial and unjustifiable risk that the proscribed result will occur and nevertheless disregards that risk.

{¶37} Criminal intent is ordinarily a question of fact for the jury and may be inferred from facts and circumstances reasonably tending to manifest a defendant's mental state. *Morrisette v. United States*, 342 U.S. 246, 274 (1952); *State v. Wallen*, 21 Ohio App.2d 27, 35 (5th Dist. 1969). The intent with which an act is committed may likewise be inferred from the act itself and the surrounding circumstances, including a defendant's acts and statements. *State v. Garner*, 74 Ohio St.3d 49, 60 (1995); *Wallen*, 21 Ohio App.2d at 34.

Analysis

{¶38} Viewing the evidence in the light most favorable to the State, we conclude that sufficient evidence supports each of Daniels's convictions. Although both counts arise from the care Daniels provided to B.C., the two counts require proof of different conduct. We therefore address each conviction separately.

R.C. 2919.22(A) – Violation of a Duty of Care

{¶39} Daniels was convicted under R.C. 2919.22(A) for recklessly creating a substantial risk to B.C.'s health or safety by violating a duty of care, protection, or support.

{¶40} The evidence was sufficient to establish each element of this offense. First, Daniels had custody and control of B.C. during the four-day respite-care period. B.C. is an eight-year-old child with cerebral palsy who is unable to walk, talk, eat, or move independently and requires around-the-clock care. Daniels was selected by the Stark County Board of Developmental Disabilities to provide that care. Thus, Daniels assumed a duty to provide appropriate care, protection, and support to B.C. while B.C. was in her custody.

{¶41} Second, the State presented evidence that Daniels violated that duty of care. B.C.'s mother testified that B.C. had no injuries when she entered Daniels's care; however, when B.C. returned to her mother's care approximately four days later, she was crying and had sustained extensive injuries, including bruising and a fractured leg. Dr. McPherson testified that B.C.'s skin injuries were caused by poor hygiene and that the injuries would have been visible to anyone appropriately checking on B.C. He further testified that B.C.'s fracture was likely caused by the way she was maneuvered while in respite care.

{¶42} This evidence, if believed, permitted the jury to conclude that Daniels breached her duty of care owed to B.C. in order to meet B.C.'s significant medical needs.

{¶43} Finally, the evidence was sufficient to establish the required mental state (*mens rea*). Recklessness does not require proof that Daniels intended to injure B.C. Rather, the State was required to establish that Daniels acted with heedless indifference to the consequences and disregarded a substantial and unjustifiable risk that her conduct would create a substantial risk to B.C.'s health or safety. R.C. 2901.22(C).

{¶44} Here, the jury could reasonably infer Daniels's awareness of that risk from the circumstances surrounding B.C.'s care. Daniels was responsible for B.C.'s feeding, diapering, hygiene, transportation, and physical care. Dr. McPherson testified that B.C.'s skin injuries would have been apparent to anyone appropriately checking her. The jury could reasonably find that either Daniels did not notice B.C.'s injuries or chose to ignore the same. Dr. McPherson also testified that the fracture was likely caused by maneuvering B.C. while she was in Daniels's care. From this evidence, the jury could find that Daniels was aware of the risks associated with failing to properly care for a medically fragile child who could not independently meet her own basic needs yet disregarded those risks.

{¶45} Accordingly, viewing the evidence most favorably to the State, a rational trier of fact could find beyond a reasonable doubt that Daniels, while having custody or control of B.C., violated her duty of care and, thereby, created a substantial risk to B.C.'s health or safety in violation of R.C. 2919.22(A).

R.C. 2919.22(B)(1) - Abuse

{¶46} Daniels was also convicted under R.C. 2919.22(B)(1), which prohibits a person from abusing a child. The evidence was likewise sufficient to support this conviction.

{¶47} R.C. 2151.031(E) defines "abuse" to include "any act that causes physical or mental injury that harms or threatens to harm the child's health or welfare." Thus, the State was required to establish that Daniels's conduct caused physical or mental injury to B.C. and that Daniels acted recklessly in causing that injury.

{¶48} The State presented evidence of multiple physical injuries. B.C. had no injuries when she entered Daniels's care. When B.C. returned approximately four days later, she had extensive bruising and a fractured leg. Dr. McPherson identified injuries to B.C.'s left buttock,

swelling in her vaginal area, and a fracture of her right lower leg near the knee. He testified that the skin injuries resulted from poor hygiene and that the fracture was likely caused by B.C. being maneuvered while in respite care.

{¶49} The evidence also permitted the jury to find that Daniels's conduct, rather than an accidental or unforeseeable event unrelated to her care, caused or contributed to B.C.'s injuries. Dr. McPherson testified that B.C. was already experiencing pain when she arrived at Akron Children's Hospital, allowing him to rule out the hospital as the location where the fracture occurred. He further testified that B.C. had no prior history of fractures and that her injuries would have been apparent to someone appropriately checking on her.

{¶50} The defense presented contrary evidence. However, at the sufficiency stage, we must view the evidence and all reasonable inferences in favor of the State. Whether Dr. McPherson or Dr. Guertin provided the more credible explanation for B.C.'s injuries is a matter for the jury.

{¶51} Considering the State's evidence in that light, a rational trier of fact could find that Daniels's failure to properly care for and maneuver B.C. was abuse, which caused physical injuries that harmed B.C.'s health and welfare. The jury could further infer recklessness from the circumstances, including Daniels's responsibility for B.C.'s care, B.C.'s significant physical limitations, the absence of injuries before B.C. entered Daniels's care, the presence of significant injuries when she returned home, and Dr. McPherson's testimony regarding the cause and visibility of those injuries.

{¶52} Accordingly, the State presented sufficient evidence from which a rational trier of fact could find beyond a reasonable doubt that Daniels recklessly caused physical injury to B.C. and thereby abused her in violation of R.C. 2919.22(B)(1).

Conclusion

{¶53} The State was required to prove different conduct for each conviction. With respect to R.C. 2919.22(A), the evidence permitted the jury to find that Daniels, having custody and control of B.C., violated her duty of care by failing to provide appropriate care and, thereby, created a substantial risk to B.C.'s health or safety. With respect to R.C. 2919.22(B)(1), the evidence permitted the jury to find that Daniels's reckless conduct caused physical injuries that harmed B.C.'s health or welfare and, therefore, constituted child abuse.

{¶54} Viewing the evidence in the light most favorable to the State, we conclude that a rational trier of fact could find all the essential elements of both offenses proven beyond a reasonable doubt.

{¶55} Daniels's first assignment of error is overruled.

II.

{¶56} In her second assignment of error, Daniels contends that her convictions are against the manifest weight of the evidence. We disagree.

Standard of Review— Manifest Weight of the Evidence

{¶57} A manifest-weight challenge concerns the persuasive force of the evidence. *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 19. In conducting this review, an appellate court acts as a "thirteenth juror," independently reviewing the record, weighing the evidence and reasonable inferences, considering witness credibility, and determining whether the jury clearly lost its way and created a manifest miscarriage of justice. *State v. Jordan*, 2023-Ohio-3800, ¶ 17; *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997). Reversal on manifest-weight grounds is reserved for the exceptional case in which the evidence weighs heavily against conviction. *Thompkins* at 387.

{¶58} Because the jury personally observes the witnesses, substantial deference is afforded to its credibility determinations. *Eastley* at ¶ 21; *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984). “An appellate court sits as the thirteenth juror only when evidence contradicts a fact-finder's findings, *see State v. Martin*, 170 Ohio St. 3d 181, 2022-Ohio-4175, ¶ 26, 209 N.E.3d 688, or when a witness's testimony is so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable.” *State v. Reillo*, 2026-Ohio-2701, ¶ 3. Without conflicting testimony or evidence that completely discredits a witness’s testimony the appellate court has nothing to weigh. *Id.*

{¶59} A conviction is not against the manifest weight of the evidence merely because the jury chose to believe the State's evidence over the defense's evidence. Where the evidence presents competing but reasonable interpretations, we defer to the jury's resolution of those conflicts unless the record demonstrates that the jury clearly lost its way. *See State v. Martin*, 2022-Ohio-4175, ¶ 26.

{¶60} In addition, the Ohio Constitution requires the unanimous concurrence of all three appellate judges before a conviction may be reversed as against the manifest weight of the evidence. Ohio Const., Art. IV, § 3(B)(3); *Bryan-Wollman v. Domonko*, 2007-Ohio-4918, ¶¶ 2-4.

Analysis

{¶61} Daniels's manifest-weight challenge principally concerns the cause of B.C.'s injuries and whether those injuries resulted from Daniels's reckless conduct. Unlike a sufficiency challenge, we may consider the competing evidence and assess the credibility and weight of the testimony. Having done so, however, we cannot conclude that the jury clearly lost its way.

{¶62} The evidence established that B.C. entered Daniels's care on June 21, 2024, without any apparent injuries. B.C. is an eight-year-old child with cerebral palsy who is unable to walk, talk, eat, or move independently and requires around-the-clock care. Daniels assumed responsibility for providing that care for approximately three days. When B.C. returned to her mother on June 24, she was crying, and her mother observed a new injury to her body and noticed that B.C.'s leg appeared abnormal when she attempted to pick her up. B.C. was subsequently found to have extensive injuries, including injuries to her buttocks and lower body and a fractured leg.

{¶63} The State presented expert testimony connecting B.C.'s injuries to the care she received while in Daniels's custody. Dr. McPherson testified that B.C.'s skin injuries resulted from poor hygiene and that the injuries would have been visible to someone appropriately checking on B.C. He further testified that B.C.'s fracture was likely caused by maneuvering her while she was in respite care. Dr. McPherson noted that B.C. had no prior history of fractures and testified that B.C. was already experiencing pain when she arrived at Akron Children's Hospital, allowing him to rule out the hospital as the location where the fracture occurred.

{¶64} The defense presented a competing explanation for the injuries. Dr. Guertin testified that the injury identified by Dr. McPherson as a bruise was actually a burn. He opined that the injury was likely caused by a seat belt and testified that its sharply demarcated pattern was consistent with a contact burn. Dr. Guertin also testified that burn specialists had evaluated the injury while B.C. was hospitalized and agreed that it was a burn.

{¶65} Dr. McPherson testified that B.C.'s broken leg was not initially noticed by the hospital staff. He opined that the injury could have occurred in the hospital during the

examination of B.C. or during routine care, as B.C.'s bones are hollow, and susceptible to breaking.

{¶66} The competing expert testimony does not render the State's evidence insufficient or demonstrate that the jury clearly lost its way. The jury heard both experts, considered their opinions along with the photographs and medical records, and was entitled to determine which opinion was more persuasive. The existence of an alternative explanation for the injuries does not require the jury to reject the State's evidence concerning the cause of the injuries.

{¶67} The evidence concerning the circumstances surrounding B.C.'s care further supported the State's case. Daniels had responsibility for B.C.'s daily care during the relevant period. That responsibility was significant because B.C. could not independently walk, eat, move, or attend to her own hygiene. Daniels was responsible for feeding, diapering, monitoring, and physically handling B.C. The jury could reasonably consider the nature of B.C.'s medical needs, the short period during which Daniels had custody, the absence of injuries when B.C. entered her care, and the presence of significant injuries when she returned home.

{¶68} Daniels's own statements also provided evidence for the jury to consider. Daniels acknowledged that B.C. sustained an injury during transportation from Akron Children's Hospital and attributed that injury to the car-seat restraints. As to the fractured tibia, however, Daniels stated that she did not know how it occurred. The jury was entitled to consider these statements, together with the other evidence, in determining whether Daniels exercised appropriate care.

{¶69} Daniels essentially asks this Court to accept Dr. Guertin's explanation of the disputed injury over Dr. McPherson's testimony. But our role is not to substitute our judgment for that of the jury simply because the record contains conflicting evidence. The jury was entitled to credit Dr. McPherson's testimony, reject Dr. Guertin's alternative explanation, or accept portions of each expert's testimony. "The choice between credible witnesses and their conflicting testimony rests solely with the finder of fact and an appellate court may not substitute its own judgment for that of the finder of fact." *State v. Awan*, 22 Ohio St.3d 120, 123 (1986) citing *Seasons Coal Co. v. Cleveland*, 10 Ohio St. 3d 77 (1984); *Henkle v. Salem Mfg. Co.*, 39 Ohio St. 547 (1883).

Conclusion

{¶70} After reviewing the entire record, weighing the evidence and reasonable inferences, and considering the credibility of the witnesses, we cannot conclude that this is the exceptional case in which the evidence weighs heavily against the convictions.

{¶71} The jury heard the competing evidence and resolved the conflicts in favor of the State. Nothing in the record demonstrates that its resolution of those conflicts was unreasonable or that the jury clearly lost its way.

{¶72} Accordingly, Daniels's convictions are not against the manifest weight of the evidence.

{¶73} Daniels's second assignment of error is overruled.

{¶74} For the reasons stated in our Opinion, the judgment of the Canton Municipal Court, Stark County, Ohio is affirmed.

{¶75} Costs are to be paid by Appellant De-Shawnay Daniels.

By: Popham, J.

Baldwin, P.J. and

Gormley, J., concur