

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

STATE OF OHIO,

Plaintiff - Appellee

-vs-

BRYCE RISHEL,

Defendant - Appellant

Case No. 25-COA-037

Opinion & Judgment Entry

Appeal from the Ashland Municipal Court,
Case No. 25-CR-B-123

Judgment: Affirmed

Date of Judgment: September 25, 2026

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

APPEARANCES: Andrew N. Bush (Assistant Law Director), Ashland, Ohio, for Plaintiff-Appellee; David T. Rice, Medina, Ohio, for Defendant-Appellant.

Gormley, J.

{¶1} Defendant Bryce Rishel was tried before a jury in the Ashland Municipal Court, and that jury found him guilty on a misdemeanor sexual-imposition charge. He now argues here that the trial court improperly excluded certain evidence, and he also questions the legal sufficiency and the factual persuasiveness of the State’s case against him. Because we find no reversible error in the trial-court proceedings, we affirm the judgment.

The Key Facts

{¶2} On a Saturday in February 2025, the 11-year-old alleged victim was at a church in Ashland with her grandmother. While the grandmother and other adult church members were upstairs preparing for the next day’s Sunday service and spaghetti dinner, the alleged victim was in the church’s basement keeping an eye on her younger brother as he played there.

{¶3} Rishel, who was 23 years old, came downstairs to the basement and spoke with the alleged victim there. According to testimony given by the alleged victim at Rishel’s trial,

Rishel then used his arms to give her a “bear hug” from behind, with Rishel’s hands moving from her chest region down to her thighs and pubic area. Next, Rishel placed his hands under her groin area and lifted her off the ground as she screamed and pushed him away, she told jurors.

{¶4} Jurors at the trial also heard — through a police officer’s testimony — what Rishel told the officer soon after the incident. The brief encounter was at most an awkward “side hug,” Rishel told the officer, and he said that his hands never went near the alleged victim’s thighs or groin area. He did acknowledge to the officer that he found the alleged victim “pretty.”

{¶5} At the trial, Rishel sought to present expert testimony about what he characterized as his awkwardness in social situations and his difficulty in understanding social cues. These were related to his autism, he argued. The trial judge, though, did not allow the jury to hear that kind of evidence, concluding that Rishel was trying to offer an impermissible diminished-capacity defense.

{¶6} The jury found Rishel guilty on a misdemeanor sexual-imposition charge, and he now appeals.

Because Rishel Did Not Proffer the Evidence That He Says Should Have Been Admitted, We Cannot Overturn the Trial Judge’s Decision Excluding It

{¶7} In his first assignment of error, Rishel argues that the trial court should have allowed jurors to hear expert testimony about his autism and the ways in which that neurodevelopmental condition might lead in social situations to awkward behavior on his part and misunderstandings on the part of others. No expert report and no proffered expert testimony, though, are in the record before us.

{¶8} We review for an abuse of discretion a trial court’s decision to bar a proposed witness from testifying. *See Gingo v. Hanak*, 2026-Ohio-1452, ¶ 39 (8th Dist.). *See also Mackey v. Altercare of Hartville Ctr. for Rehab. and Nursing Care*, 2023-Ohio-1581, ¶ 21 (5th Dist.) (“A decision to admit or exclude evidence will be upheld absent an abuse of discretion”).

{¶9} And an appellant bears the burden of providing to us all relevant evidence supporting any claimed errors. *See State v. Ashcraft*, 2021-Ohio-3897, ¶ 11 (5th Dist.) (“an appellant bears the burden of showing error by reference to matters in the record”) (citation and quotations omitted); *State v. Wilson*, 2018-Ohio-396, ¶ 23 (5th Dist.) (“Appellant has the responsibility of providing the reviewing court with a record of the facts, testimony, and evidentiary matters that are necessary to support the appellant’s assignments of error”).

{¶10} “Evid.R. 103(A)(2) requires an offer of proof in order to preserve any error in excluding evidence, unless the excluded evidence is apparent in the record.” *State v. Brooks*, 44 Ohio St. 3d 185, 195 (1989). The Appellate Rules likewise make clear that documentary exhibits offered but not admitted should be made part of the record. *See App.R. 9 (B)(6)(g)* (“documentary exhibits offered at trial whose admission was denied shall be included in a separate envelope with a notation that they were not admitted”).

{¶11} Nothing in the record before us suggests that Rishel proffered the proposed expert testimony that he now argues should have been admitted, and we also see in the record no expert reports addressing the proposed expert’s methodology or conclusions. Those omissions preclude us from second-guessing the trial judge’s decision to exclude the evidence. *See State v. Jones*, 2026-Ohio-1749, ¶ 13 (9th Dist.) (“After the municipal court ruled that Mr. Jones could not present [certain] evidence, . . . Jones did not make a proffer of what the evidence would have been” and he therefore failed to “preserve[] his arguments for appeal”);

State v. Greene, 2025-Ohio-1096, ¶ 56 (6th Dist.) (“Because Greene did not seek to introduce King’s proposed testimony by proffer or otherwise, the record permits no resolution of this issue”); *State v. Smith*, 2017-Ohio-359, ¶ 19 (9th Dist.) (“When the court’s ruling is one excluding evidence, a party must proffer the evidence at trial to preserve the issue for appeal”).

{¶12} Because nothing in the record allows us to understand what any proposed expert might have said at trial, we deny Rishel’s first assignment of error challenging the trial judge’s decision to exclude the expert’s testimony.

Rishel’s Conviction Was Supported by Sufficient Evidence

{¶13} In his second assignment of error, Rishel argues that the State failed to present sufficient evidence to support his conviction on the sexual-imposition charge.

{¶14} “When reviewing the sufficiency of the evidence, an appellate court does not ask whether the evidence should be believed but, rather, whether the evidence, ‘if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt.’” *State v. Pountney*, 2018-Ohio-22, ¶ 19, quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. ““The relevant inquiry is whether, after viewing the evidence in the 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.”” *State v. Howell*, 2020-Ohio-174, ¶ 28 (5th Dist.), quoting *Jenks* at paragraph two of the syllabus. A “verdict will not be disturbed unless the appellate court finds that reasonable minds could not reach the conclusion reached by the trier-of-fact.” *State v. Dennis*, 79 Ohio St.3d 421, 430 (1997).

{¶15} To prove the sexual-imposition charge under R.C. 2907.06(A), the State was required to show that “sexual contact” occurred between Rishel and the alleged victim. And “sexual contact” is of course defined in R.C. 2907.01(B) as “any touching of an erogenous

zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.”

{¶16} Evidence of any sexual contact was lacking at the trial, Rishel argues, because, he claims, he had no intent to sexually arouse or gratify himself during the incident in the basement. Yet construing the evidence most strongly in the State’s favor, as we must, we see the evidence differently than does Rishel.

{¶17} Circumstantial evidence is evidence that can be “inferred from reasonably and justifiably connected facts,” and a “conviction can be sustained based on circumstantial evidence alone.” *State v. Anderson*, 2024-Ohio-3181, ¶ 53 (5th Dist.) (quotations and citations omitted). *See also State v. Neff*, 2025-Ohio-1171, ¶ 46 (4th Dist.) (“a defendant may be convicted solely on the basis of circumstantial evidence, which is not less probative than direct evidence”); *State v. Kimble*, 2025-Ohio-310, ¶ 48 (6th Dist.) (“circumstantial evidence may be considered in a sufficiency challenge”).

{¶18} In our view, reasonable minds could have found, based on the direct and circumstantial evidence presented at the trial, that Rishel did in fact touch the alleged victim with the requisite sexual intent. As the trial court noted in denying a Criminal Rule 29 motion during the trial, the evidence supported the State’s view that Rishel approached the alleged victim from behind and continued to touch her even after she started hitting him and calling for help. And the alleged victim, who testified that Rishel touched her butt, thighs, and vaginal area, was in an isolated area of the church with only her younger brother in the room at the time, which might have prompted jurors to surmise that his purpose was something other than innocent.

{¶19} From this evidence, the jury could have inferred a sexual purpose as Rishel's motivation for the contact. We find that the State did present legally sufficient evidence to support the sexual-imposition charge.

Rishel's Conviction Was Not Against the Manifest Weight of the Evidence

{¶20} Rishel argues in his third assignment of error that the manifest weight of the evidence did not justify his conviction on the charge.

{¶21} “In determining whether a conviction is against the manifest weight of the evidence, the court of appeals functions as the ‘thirteenth juror,’ and after ‘reviewing 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 [trial court] clearly lost its way and created such a manifest miscarriage of justice that the conviction must be overturned and a new trial ordered.’” *State v. Hane*, 2025-Ohio-120, ¶ 20 (5th Dist.), quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997). The reversal of a conviction on manifest-weight grounds should occur only in “the ‘exceptional case in which the evidence weighs heavily against the conviction.’” *Id.*

{¶22} “In weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.” *State v. Butler*, 2024-Ohio-4651, ¶ 75 (5th Dist.). “‘The underlying rationale of giving deference to the findings of the trial court rests with the knowledge that the [trier of fact] is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.’” (Bracketed text in original.) *State v. Williams*, 2024-Ohio-5578, ¶ 61 (5th Dist.), quoting *Seasons Coal Co., Inc. v. City of Cleveland*, 10 Ohio St.3d 77, 80 (1984). “[A]n appellate court will leave the issues of weight and credibility of the evidence to the factfinder,

as long as a rational basis exists in the record for its decision.” *State v. Sheppard*, 2025-Ohio-161, ¶ 66 (5th Dist.).

{¶23} The jury did not lose its way in finding Rishel guilty. The jury heard testimony from the alleged victim, from two police officers, and from two persons who had been upstairs in the church at the time. Jurors also heard that the alleged victim’s younger brother was interviewed by a police officer soon after the church-basement incident, and the brother’s demonstration of Rishel’s hug was consistent with the alleged victim’s trial testimony.

{¶24} To be sure, Rishel, through his cross-examination of the alleged victim, was able to give jurors some evidence that the basement encounter was brief, and he argued in closing that he had no sexual-gratification purpose and that no one had testified that he did. Yet, jurors were entitled, too, to consider the fact that Rishel chose to hug or embrace a young girl when no adults were present, and jurors were of course free to find credible the alleged victim’s description of where he touched her, just as they could reasonably doubt Rishel’s own characterization and minimization of the incident when he was questioned by a police officer soon afterwards. As we have said, a jury, as the trier of fact, “is free to believe all, part[,] or none of the testimony of any witness who appears before it.” *State v. Vogelsong*, 2025-Ohio-5107, ¶ 33 (5th Dist.).

{¶25} Mindful of the deference afforded to a jury and its findings of fact, we cannot say that this jury lost its way or reached a verdict that resulted in a manifest miscarriage of justice.

There Is No Cumulative Error

{¶26} In his fourth and final assignment of error, Rishel contends that the cumulative effect of what he claims are the trial court’s errors deprived him of a fair trial. Yet the

cumulative-error doctrine has no application in a case like this, where we have found no support for the view that trial-court proceedings were marked by multiple errors. *See State v. Wilson*, 2026-Ohio-1178, ¶ 29 (1st Dist.) (to find cumulative error, a court must find not only multiple errors but also a reasonable probability that the outcome would have been different but for their combination); *State v. Remillard*, 2019-Ohio-3545, ¶ 84 (5th Dist.) (“a cumulative-error analysis should evaluate only the effect of matters determined to be error, not the cumulative effect of non-errors”).

{¶27} For the reasons explained above, the judgment of the Ashland Municipal Court is affirmed. Costs are to be paid by Appellant Bryce Rishel.

By: Gormley, J.;

Popham, P.J. and

Baldwin, J. concur.