

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

STATE OF OHIO,

Plaintiff - Appellee

-vs-

STEVEN STANLEY
DACKIEWICZ,

Defendant - Appellant

Case No. 2025CA00149

Opinion And Judgment Entry

Appeal from the Stark County Court of Common
Pleas, Case No. 2025CR0465

Judgment: Affirmed

Date of Judgment Entry: October 16, 2026

BEFORE: Andrew J. King; Robert G. Montgomery; Kevin W. Popham, Judges

APPEARANCES: KYLE L. STONE, Stark County Prosecuting Attorney, by
KAMEISHA J. JOHNSON, for Plaintiff-Appellee; MICHAEL A. PARTLOW, for
Defendant-Appellant.

Montgomery, J.

{¶1} Defendant-appellant Steven Dackiewicz appeals the judgment entered by the Stark County Common Pleas Court convicting him following jury trial of two counts of aggravated robbery (R.C. 2911.01(A)(1),(C)) and two counts of aggravated burglary (R.C. 2911.11(A)(2),(B)), with repeat violent offender specifications, and sentencing him to an aggregate term of incarceration of twenty-seven to thirty-two and one half years. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} The victims in the instant case, J.W. and V.W., are husband and wife. V.W. is retired, but she assists her husband with the daily management of an Italian members' club in Alliance.

{¶3} On December 7, 2024, the victims were at home, and J.W. was asleep in his lounge chair. Someone knocked on the door. V.W. opened the door and saw a man dressed in an Amazon Prime delivery uniform. He wore a mask which hid his face, but she did not find that unusual because it was cold outside. J.W. woke up when his wife answered the door but remained seated in his chair. The man had a package addressed to J.W., but the address was incorrect. The man told V.W. she needed to fill out a form confirming receipt of the package because the address on the label was incorrect.

{¶4} V.W. had never purchased anything from Amazon and was unfamiliar with Prime. However, she did not find the arrival of a package unusual because it was near Christmas, and the victims commonly received packages from friends in San Antonio during the holidays. Because it was cold outside, she invited the man inside to wait while she filled out the form.

{¶5} J.W. offered the man a beer. He responded that this was his last stop, so he could have a beer. V.W. gave the man a beer. The man began sharing personal information he knew about the victims with them. He mentioned that he knew V.W. had been hospitalized with Covid for a long period of time, and he knew J.W. went to the club to get money between six and seven o'clock in the morning. V.W. became concerned about the amount of personal information the man knew about her and her husband. She asked him how he knew these personal details, but the man did not answer. After finishing his beer, the

man reached into his pocket and pulled out a gun. He claimed J.W. had cheated someone out of \$4,000 and demanded the money. He also demanded the victims' cell phones and placed the phones on a hutch.

{¶6} V.W. told the man that they were not going to give him any money. The man grabbed her arm. J.W. warned the man not to grab his wife's arm. The man pointed the gun at J.W. and demanded \$4,000. J.W. retrieved bags in which they kept money from the club's ticket machine and started counting the money. The man grabbed all of the money, the bag, and the paperwork he had asked V.W. to fill out. The man left, leaving behind the beer bottle.

{¶7} Police collected the beer bottle and swabbed the inside and outside of the bottle's mouth. Appellant was identified as the perpetrator from the DNA found on the bottle.

{¶8} Police reviewed the phone calls Appellant made while he was in jail. Appellant initially admitted to driving by the victims' homes with someone else. On another call, Appellant admitted he entered the residence but claimed he was there to collect a debt, and the victims voluntarily gave him the money.

{¶9} During the investigation, police learned Appellant was behind on his rent. Police discovered shortly after the robbery, Appellant paid back rent with money orders totaling \$3,000.

{¶10} Appellant was indicted by the Stark County Grand Jury with one count of aggravated robbery and one count of aggravated burglary. A superseding indictment was later filed charging Appellant with two counts of aggravated robbery and two counts of aggravated burglary, with each of the four counts including a firearm specification and a repeat violent offender specification.

{¶11} The case proceeded to jury trial in the Stark County Common Pleas Court, with the repeat violent offender specifications being tried to the court.

{¶12} Appellant testified at trial. He admitted to being in the victims' home on the night in question but claimed he was wearing the Walmart delivery uniform he wore to work. He denied having a package for delivery. He testified he went to the victims' home to collect a debt J.W. owed his friend from a machine at the club. He testified J.W. gave him the money and he left. He denied having a gun.

{¶13} The jury found Appellant guilty of all four charges but not guilty of the firearm specifications. The trial court found Appellant guilty of the repeat violent offender specifications. The trial court found count one of aggravated robbery merged with count three of aggravated burglary. The trial court found count two of aggravated robbery merged with count four of aggravated burglary. The trial court found the repeat violent offender specifications on counts one, two and four merged into the repeat violent offender specification on count three. The trial court sentenced Appellant to an aggregate prison term of twenty-seven to thirty-two and one-half years.

{¶14} It is from the October 31, 2025, judgment of the trial court Appellant prosecutes his appeal, assigning as error:

“I. APPELLANT’S CONVICTIONS ARE NOT SUPPORTED BY SUFFICIENT EVIDENCE.”

“II. APPELLANT’S CONVICTIONS ARE AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

STANDARD OF REVIEW

{¶15} The legal concepts of sufficiency of the evidence and weight of the evidence are both quantitatively and qualitatively different. *State v. Thompson*, 78 Ohio St.3d 380, paragraph two of the syllabus (1997). Sufficiency of the evidence is a test of adequacy as to whether the evidence is legally sufficient to support a verdict as a matter of law, while weight of the evidence addresses the evidence's effect of inducing belief. *Id.* at 386-387. A finding that a conviction is supported by the manifest weight of the evidence, however, necessarily includes a finding that the conviction is supported by sufficient evidence and will therefore be dispositive of the issues of sufficiency of the evidence. *State v. McCrary*, 2011-Ohio-3161, ¶ 11 (10th Dist.).

{¶16} An appellate court's function when reviewing the sufficiency of the evidence is to determine 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. *State v. Jenks*, 61 Ohio St.3d 259, paragraph two of the syllabus (1991).

{¶17} The term “manifest weight of the evidence” relates to persuasion. *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 19. It concerns “the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other.” (Emphasis deleted.) *Thompson* at 387; *State v. Martin*, 2022-Ohio-4175, ¶ 26.

{¶18} In determining whether a judgment 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 and a new trial ordered.”

Thompkins at 387, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist.1983). Sitting as the “thirteenth juror,” the court of appeals considers whether the evidence should be believed and may overturn a verdict if it disagrees with the trier of fact's conclusion. *Id.*

{¶19} When conducting a manifest weight review, the question is whether the jury clearly lost its way in resolving conflicts, resulting in a manifest miscarriage of justice, even if the evidence is legally sufficient. *Thompkins*, 78 Ohio St.3d at 387; *State v. Issa*, 93 Ohio St.3d 49, 67 (2001). Appellate courts have traditionally presumed the jury's assessment is correct, given its ability to observe witnesses' demeanor, gestures, and tone, all critical factors in evaluating credibility. *Eastley*, 2012-Ohio-2179, at ¶ 21; *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984).

{¶20} A manifest-weight claim succeeds only in “the exceptional case in which the evidence weighs heavily against the conviction.” (Internal quotations omitted.) *Thompkins* at 387. To reverse a conviction on manifest-weight grounds, all three judges on the appellate panel must concur. Ohio Const., Art. IV, § 3(B)(3); *Bryan-Wollman v. Domonko*, 2007-Ohio-4918, ¶¶ 2-4, citing *Thompkins* at syllabus ¶ 4.

ANALYSIS

{¶21} Appellant argues the verdicts are inconsistent because the jury found him guilty of aggravated burglary and aggravated robbery, but not guilty of the firearm specifications, and as such the verdicts are not supported by sufficient evidence and are against the manifest weight of the evidence.

{¶22} Appellant was convicted of aggravated robbery in violation of R.C. 2911.01(A)(1), which provides:

No person, in attempting or committing a theft offense, as defined in section 2913.01 of the Revised Code, or in fleeing immediately after the attempt or offense, shall do any of the following:

Have a deadly weapon on or about the offender's person or under the offender's control and either display the weapon, brandish it, indicate that the offender possesses it, or use it[.]

{¶23} He was also convicted of aggravated burglary in violation of R.C. 2911.11(A)(2):

No person, by force, stealth, or deception, shall trespass in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, when another person other than an accomplice of the offender is present, with purpose to commit in the structure or in the separately secured or separately occupied portion of the structure any criminal offense, if any of the following apply:

The offender has a deadly weapon or dangerous ordnance on or about the offender's person or under the offender's control.

{¶24} The jury found Appellant not guilty of the firearm specifications attached to the charges of aggravated burglary and aggravated robbery. The firearm specification is defined by R.C. 2941.145(A):

Imposition of a three-year mandatory prison term upon an offender under division (B)(1)(a)(ii) of section 2929.14 of the Revised Code is precluded unless the indictment, count in the indictment, or information charging the offense specifies that the offender had a firearm on or about the offender's person or under the

offender's control while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used it to facilitate the offense.

{¶25} This Court has held that a jury's failure to find a defendant guilty of a firearm specification is not sufficient to overturn the verdict on a principal charge which requires a finding that the defendant used a deadly weapon or firearm. R.C. 2941.145, which imposes a three-year prison term on an offender who uses a firearm in the commission of an offense, does not contain a positive prohibition of conduct. *State v. Berry*, 2024-Ohio-923, ¶ 59 (5th Dist.). Instead, the firearm specification increases the sentence imposed on an offender who uses a firearm during the commission of an offense by three years. The jury's finding on the firearm specification cannot affect the finding of guilt on the predicate offense:

We have found that sufficient evidence was presented to sustain the jury's verdict on each count of the indictment. A finding of not guilty on the firearm specifications does not create an inconsistent verdict that invalidates the guilty finding on the principal charges. Though inconsistency can indicate confusion or doubt on the part of jurors, it can also indicate compromise or mercy. *State v. Trewartha*, 165 Ohio App.3d 91, 2005-Ohio-5697, 844 N.E.2d 1218, ¶ 16 (10th Dist.). "[I]nconsistent verdicts—even verdicts that acquit on a predicate offense while convicting on the compound offense—should not necessarily be interpreted as a windfall for the Government at the defendant's expense." *United States v. Powell*, 469 U.S. 57, 62, 65, 105 S.Ct. 471, 83 L.Ed.2d 461 (1984). As *Powell* notes, "[i]t is equally possible that the jury, convinced of guilt, properly reached its conclusion on the compound offense, and then through mistake, compromise, or

lenity, arrived at an inconsistent conclusion on the lesser offense." *Id. Accord, State v. Gardner*, 118 Ohio St.3d 420, 2008-Ohio-2787, 889 N.E.2d 995(2008), ¶81.

Id. at ¶ 60.

{¶26} Both victims testified that Appellant used a gun in the commission of the offense. V.W. testified that Appellant reached into his pocket, pulled out a gun, and demanded \$4,000. She testified that Appellant pointed the gun at J.W.'s chest while demanding \$4,000. J.W. testified that Appellant placed the firearm, which was mostly still in Appellant's pocket, against J.W.'s body. He testified Appellant did not fully withdraw the gun from his pocket, but he had experience with guns and described the gun as a small-caliber revolver.

{¶27} Appellant also argues there were inconsistencies in the victims' testimony which renders his convictions against the manifest weight of the evidence. However, he does not identify what these alleged inconsistencies in the testimony were, and he also does not cite to the record in support of his claim. While the jury may take note of inconsistencies and resolve or discount them accordingly, such inconsistencies alone do not render a conviction against the manifest weight or sufficiency of the evidence. *State v. Wolters*, 2022-Ohio-538, 185 N.E.3d 601, ¶ 20 (5th Dist.).

{¶28} Finally, Appellant argues the jury was confused, which led to the verdicts being against the manifest weight of the evidence. He bases this argument on a question posed by the jury during deliberations. The question asked if "burglary" must include theft, or can it be committed by trespass by deception. Tr. (2) 466.

{¶29} This Court will not engage in speculation as to why the jury asked certain questions for purposes of its deliberations. *State v. Wood*, 2020-Ohio-4895, ¶ 40 (10th Dist.).

Nothing in the record before this Court supports Appellant's argument that the jury's question demonstrated confusion so egregious that the jury lost its way and created a manifest miscarriage of justice in rendering its verdicts. *Id.*

{¶30} We have reviewed the record and find the jury's verdicts finding Appellant guilty of aggravated robbery and aggravated burglary are supported by sufficient evidence and are not against the manifest weight of the evidence. Appellant's first and second assignments of error are overruled.

CONCLUSION

{¶31} For the reasons stated in our accompanying Opinion, the judgment of the Stark County Court of Common Pleas is Affirmed.

{¶32} Costs to Appellant.

By: Montgomery, J.

King, P.J. and

Popham, J. concur.