

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

State of Ohio

Appellee

Court of Appeals No. L-22-1112  
L-22-1113  
L-22-1114

Trial Court No. CR0202101264  
CR0202102424  
CR0202103081

v.

Sean Turvey

Appellant

**DECISION AND JUDGMENT**

Decided: June 30, 2023

\* \* \* \* \*

Julia R. Bates, Lucas Count Prosecuting Attorney, and  
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Laurel A. Kendall, for appellant.

\* \* \* \* \*

**SULEK, J.**

{¶ 1} In this consolidated appeal, appellant Sean Turvey appeals the judgments of the Lucas County Court of Common Pleas, following a jury trial, which convicted him of

a litany of human trafficking, drug, and sex crimes. Because Turvey's convictions are supported by sufficient evidence and are not against the manifest weight of the evidence, and because the trial court did not err or violate Turvey's constitutional rights when it sentenced him to a combined 90-year minimum prison sentence, the judgments of the Lucas County Court of Common Pleas are affirmed.

### **I. Facts and Procedural Background**

{¶ 2} The Lucas County Grand Jury separately indicted Turvey in three cases.

{¶ 3} In case No. CR0202101264, the grand jury indicted Turvey on one count of trafficking in persons in violation of R.C. 2905.32(A)(1) and (E), a felony of the first degree; one count of kidnapping in violation of R.C. 2905.01(A)(2) and (C), a felony of the first degree with a human trafficking specification under R.C. 2941.1422; one count of abduction in violation of R.C. 2905.02(A)(3) and (C), a felony of the third degree with a human trafficking specification under R.C. 2941.1422; one count of compelling prostitution in violation of R.C. 2907.21(A)(1) and (C), a felony of the third degree with a human trafficking specification under R.C. 2941.1422; and one count of corrupting another with drugs in violation of R.C. 2925.02(A)(3) and (C)(1), a felony of the second degree. The charges in this case stemmed from Turvey's conduct towards the victim K.S.

{¶ 4} In case No. CR0202102424, the grand jury indicted Turvey on one count of trafficking in persons in violation of R.C. 2905.32(A)(1) and (E), a felony of the first

degree; and one count of compelling prostitution in violation of R.C. 2907.21(A)(1) and (C), a felony of the third degree with a human trafficking specification under R.C.

2941.1422. These charges arose from Turvey's conduct towards the victim J.H.<sup>1</sup>

{¶ 5} In case No. CR0202103081, the grand jury indicted Turvey on four counts of rape in violation of R.C. 2907.02(A)(2) and (B), felonies of the first degree; four counts of corrupting another with drugs in violation of R.C. 2925.02(A)(4)(a) and (C)(1)(a), felonies of the second degree; four counts of unlawful sexual conduct with a minor in violation of R.C. 2907.04(A) and (B)(3), felonies of the third degree; and four counts of importuning in violation of R.C. 2907.07(B)(1), (F)(1), and (F)(3), felonies of the fifth degree. Before trial, the state dismissed the four counts of rape. The remaining charges arose from Turvey's conduct towards the victim E.K.

{¶ 6} Without objection, the three cases were joined for trial. A five-day jury trial commenced, during which the following evidence was presented.

{¶ 7} Toledo Police Officer Raymundo Martin testified that on February 13, 2021, he responded to a call to check on the safety of a female who was being held against her will. Martin arrived at 5549 Christopher Court in Toledo, Ohio. Because the police were unsure which townhouse the female was located in, the dispatcher had the female turn the lights on and off. Martin knocked on the correct door, and a young female rushed outside. The female identified herself as K.S. Martin placed K.S. in the back of his

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<sup>1</sup> J.H. was also named as a defendant in case No. CR0202101264. J.H. pleaded guilty to the count of corrupting another with drugs and testified against Turvey at trial.

patrol cruiser and then secured the townhouse, where Turvey and J.H. were present. Upon securing the townhouse, Martin returned to his cruiser and spoke with K.S. The state played the video recording from Martin's body camera showing the events of that night. In the recording, a visibly distraught K.S. stated that she came to Toledo about three weeks ago at the suggestion of her friend, J.H. K.S. said that since being in Toledo, Turvey and J.H. have shot her up with drugs and put ads on a dating app for her to perform sexual acts on men that would come to the townhouse. K.S. showed Martin a bruised lip and needle marks on her arms that she said were caused by Turvey and J.H.

{¶ 8} Toledo Police Officer Nicole Tucker also responded to the scene. Video from her body camera showed a coffee table with unmarked pill bottles, women's razors, and condoms on it. In the couch were drugs and drug paraphernalia. In the washing machine and dryer were women's underwear. Upstairs, the master bedroom contained a bed, a set of bunk beds, and a playpen. Tucker remarked that there were no other baby items in the entire apartment. The two other bedrooms each contained two sets of bunk beds. In one of the bedrooms, the closet contained only men's clothes. In the other bedroom, there was a towel, a female's pillowcase, some condoms on the floor, and a pair of women's underwear. Tucker noticed that the beds looked "laid in, but not lived in." The two bedrooms did not contain any other furniture, decorations, or personal items.

{¶ 9} Toledo Police Detective Cherokee Tabb testified regarding the execution of a search warrant at Turvey's townhouse. Tabb authenticated photos that showed the townhouse having three bedrooms. Two of the bedrooms each contained two sets of bunk beds. Inside one of the bedrooms was a package of condoms and some women's undergarments. The garbage can in the hall bathroom next to the two bedrooms also contained lotion and open condom wrappers.

{¶ 10} In the kitchen, Tabb discovered three hypodermic needles inside of a cabinet that also contained food and spices. Two of the needles were empty, but the third one was "loaded." Tabb testified that the location of the needles was indicative of drug use because the needles were not properly stored in a sterile place and instead were located for easy access to anyone. Tabb also testified, based upon his training and experience, that it was very common for human traffickers to use drugs or provide them to the victims and that injecting someone with drugs is a method of control.

{¶ 11} On cross-examination, Tabb acknowledged that he did not notice any external locks on the bedroom doors, nor did he find any handcuffs, zip ties, or other restraints. Tabb also acknowledged that it is not unusual for a home to contain condoms or condom wrappers. However, on redirect, Tabb testified that the presence of the bunk beds, women's undergarments, condoms and condom wrappers, and hypodermic needles, together, led him to suspect that prostitution was occurring at the residence.

{¶ 12} Toledo Police Officer Todd Mikolajczyk testified to drug paraphernalia that was found at the scene. The armrest of the couch contained meth pipes, pill bottles, and baggies. Mikolajczyk also found a torch lighter and a meth pill. A box of syringes were located in the first floor bathroom. Finally, Mikolajczyk found \$207 in cash in a closet in the living room.

{¶ 13} Toledo Police Sergeant Thomas Reinhart also searched the residence, particularly a small lock box that was located in the master bedroom closet. The lock box contained Turvey's social security card along with acid tabs, baggies containing meth, and psilocybin, which are commonly known as mushrooms.

{¶ 14} The state next called Chadwyck Douglass as an expert witness in the field of drug analysis. Douglass analyzed the drugs found in Turvey's residence and determined that the drugs consisted of 4.79 grams of methamphetamine, 2.36 grams of psilocin, and 1.2 grams of LSD.

{¶ 15} The identified victims also testified. K.S. testified that she was born in 2002 and is from Georgia. K.S.'s father is a drug user and K.S. did not know him until after the events in this case. K.S.'s mother is a drug user as well, has been in and out of prison, and has mistreated K.S. K.S. testified that she has been in foster care for almost her entire life. K.S. was very close with her grandfather, but he passed away when she was 14 years old, after which K.S.'s life began to spiral out of control. K.S. moved in

with her brother's parents, who unenrolled her from high school so that she could work and pay the bills. Eventually, K.S. was kicked out and she became homeless.

{¶ 16} After a period of time, K.S. went to live with her mother, her younger sister, and her mother's wife. K.S. described that her mother and her mother's wife used drugs and were lazy, so it fell on K.S. to go to school, work a job, and raise her little sister. K.S. testified that she and her sister smoked marijuana and that her parents would obtain the drugs for them. Prior to coming to Toledo, K.S. had also tried LSD and methamphetamine. K.S. typically smoked the methamphetamine through a pipe, but tried injecting it one time with her brother. K.S. testified that she did not like the injection and that it made her feel like death.

{¶ 17} K.S. testified that she hated her life living with her mother and wanted to run away. She stated that she was living with 19 dogs in a small residence and was constantly cooking, cleaning, and taking care of her sister. J.H. provided her a path to escape. K.S. testified that she had known J.H. for several years after they met at a party. The two flirted and "sexted" with each other and became close friends. J.H. told K.S. that he had a job opportunity for her up in Toledo, Ohio.

{¶ 18} Believing that J.H. would be driving her to Toledo, K.S. left her home in the middle of the night. Instead, Turvey picked her up. K.S. does not remember much, but remembered putting her bags in the back of the vehicle and not seeing a driver. K.S. did not realize that it was Turvey instead of J.H. until they stopped at a hotel.

{¶ 19} K.S. testified that the first night in Toledo was fun. Turvey was not there and K.S. spent the evening smoking drugs. On the second day, however, Turvey and “the paramedic type guy” injected K.S. with drugs. K.S. testified that she was terrified and J.H. took her upstairs to calm her down. After taking a shower, Turvey and the paramedic guy injected her again. K.S. testified that she was injected numerous times while she was in Toledo. She did not want to take the injections, but she could not refuse or else she would be hit in the back of the head, or tied up, or put in “the car shed thing.” K.S. testified that by the time she left Turvey’s residence she was addicted to methamphetamine and suffered excruciating withdrawal symptoms.

{¶ 20} In addition to physically abusing her, K.S. testified that Turvey would mentally and emotionally abuse her by making her call him “daddy” and “my lord” and by yelling at her a lot. Turvey also made K.S. appear either naked or almost naked around his friends. K.S. testified that J.H. also sometimes verbally abused her, but only when Turvey was around. K.S. thought that J.H. was trying to get on Turvey’s good side, but that J.H. still cared for her. Although, on cross-examination K.S. testified that J.H. once got in an argument with her and slammed her head against a car window when she refused to have sex with him. Turvey came and stopped the altercation.

{¶ 21} K.S. explained that Turvey had control over her through fear. Turvey controlled her clothing, her food, and her transportation. K.S. had nothing. Turvey told K.S. that she could leave anytime but that she would leave with nothing. K.S. knew that

Turvey would not let a witness leave the house, and she knew that Turvey would come after her if she left. In addition, K.S. had nowhere to go and did not think she would survive in the winter snow with no money, no food, no shoes, no clothes, and no shelter.

{¶ 22} The state then asked K.S. if she ever had sexual intercourse at Turvey's house. K.S. testified that she had consensual sex one time with a person named Mason, but she had non-consensual sex many times with other men. K.S. recalled having sex with a person named Darrell, who was involved with the initial injection of methamphetamine and making her become a prostitute. Darrell brought over another woman who taught K.S. how to please men. While she was getting this instruction, K.S. was allowed to be sober for one of the few times while she was in Toledo. K.S. also recalled having sex with a redhead because they had just injected her with methamphetamine an hour earlier. K.S. testified that she was never paid, but she saw money exchanged with Turvey. According to K.S., Turvey created online accounts in her name to advertise her services. K.S. identified pictures and videos of her that were used in these online accounts.

{¶ 23} K.S. also testified that she saw a minor, E.K., in the house doing acid. E.K. looked as if she was 14 to 16 years old. One time, Turvey took E.K. up to his bedroom, but J.H. intervened, which frustrated Turvey. K.S. told Turvey that if he would just take E.K. home, she would perform oral sex on him. K.S. testified that she did not want E.K. to go through the same things that she was going through.

{¶ 24} K.S. ultimately developed a goal of getting a phone so that she could contact help. K.S. began complying with Turvey's orders to make her life easier in that she would receive fewer blows to the head, be called names less often, and generally be treated better instead of getting yelled at. K.S. then noticed that Turvey was frustrated by the work of getting clients, so she convinced him that it would be easier if she did all the bidding and the work on the phone. Turvey agreed and purchased a phone for K.S. and later added contact information for some of her clients.

{¶ 25} Once K.S. received the phone and had time alone with it, she contacted an old boyfriend who lived in California. The old boyfriend was able to get in touch with K.S.'s mother and pass along her information to K.S. K.S. then reached out to her mother and told her "Please get me home. I am battling the needle, they constantly keep feeding me drugs." Later in the conversation she told her mother, "They beat me, raped me, made me sell my body. Please help. I'm scared. I want to go home. Get me home." K.S.'s mother contacted the police, who then responded to the residence.

{¶ 26} The state also called J.H. as a witness. J.H. began his testimony by acknowledging that he was originally a co-defendant with Turvey in the case where K.S. was the victim. J.H. accepted a plea deal from the state and agreed to testify against Turvey because he was friends with K.S. and he wanted her to get justice. J.H. noted that he too was a victim of Turvey's actions.

{¶ 27} J.H. testified that he had been in and out of foster care for most of his life. His birth mother committed suicide by drug overdose in front of him when he was very young. J.H.'s closest brother also committed suicide in front of him when J.H. was only eight years old. At the beginning of J.H.'s twelfth grade year, his grandfather died, which caused his life to spiral out of control. J.H. dropped out of high school and started selling drugs. Around the same time, J.H. met his birth father for the first time. Prior to then, J.H.'s birth father was in and out of prison and not a part of his life. However, when the two did meet, J.H.'s father introduced him to methamphetamines which started J.H.'s addiction. Thereafter, J.H. moved to South Carolina with an older brother and lived in an apartment selling drugs together. Eventually, J.H.'s brother kicked him out because he was not paying rent, and J.H. was homeless for about two weeks in South Carolina before he moved back to Atlanta where he was homeless for about five months.

{¶ 28} J.H. met K.S. when he was approximately 16 years old and she was approximately 13 years old. They met through a mutual friend and partied and got high together. J.H. described K.S. as his best friend and the two texted almost every day.

{¶ 29} J.H. testified that he came to Toledo because a man he was dating offered him a place to stay to get out of the halfway house that he had been living in following rehab. J.H. testified that when he moved up to Toledo he had been clean for nine months. After a month of living with the other man, the two broke up and J.H. left the house. J.H. testified that he was depressed and was "hunting for [his] relapse." J.H. met Turvey

through an online dating app. Turvey initiated the conversation and told J.H. that he was looking to perform oral sex. J.H. replied that he was interested and said that he was looking to get high. Turvey responded that he had some marijuana and asked for pictures of J.H.'s genitalia and body. J.H. sent the pictures. Turvey then asked J.H. if he smoked methamphetamines, and J.H. replied that he did. The two arranged for Turvey to come pick up J.H. J.H. eventually moved in with Turvey.

{¶ 30} While living together, J.H. and Turvey got high, partied, and had sex with each other. J.H. contributed income by selling drugs. Turvey then encouraged J.H. to sell his body. When a person, Mike, who had been coming over to smoke marijuana told J.H. that he wanted to have sex, J.H. replied that it was \$80. Mike handed the \$80 to J.H. and it went straight to Turvey. J.H. testified that he was in both a business and sexual relationship with Turvey. J.H. profited from the business relationship by receiving free drugs; he never made any money from it. J.H. testified that Turvey would have kicked him out if he stopped making money and he would not have survived without any money, transportation, or place to go. Although Turvey told J.H. that he was free to leave, J.H. testified that he could not have left because he had nowhere to go and had warrants out for his arrest.

{¶ 31} When K.S. told J.H. that she was getting kicked out of her home, J.H. asked Turvey if he thought they could help her. Turvey stated that it would be a good idea to bring K.S. up to Toledo and he proposed the idea of having her turn tricks. J.H.

testified that he told K.S. that Turvey would pick her up and that she would have to make money somehow, which more than likely was by selling drugs and turning tricks.

{¶ 32} J.H. testified that he and Turvey began selling K.S. on the first day using various dating and friend-finding apps. At Turvey's direction, J.H. created the advertisements for K.S.'s services and included sexual photos and videos that Turvey had her record. J.H. described that at first K.S. wanted to work and sell her body, but then by the second day she stopped taking the initiative and would "dodge [the work]." J.H. testified that if K.S. did not bring in money she would be locked in a closet or would be cut off from drugs. J.H. also testified that he and Turvey injected K.S. with methamphetamine. Turvey controlled how much of the drug went into the shot. One time, K.S. received a large dose that caused her to start convulsing and then stop breathing. J.H. resuscitated her by administering mouth-to-mouth.

{¶ 33} J.H. also testified about seeing a minor, E.K., in the house. E.K. appeared to be about 16 years old and Turvey showed J.H. her Facebook profile, which listed that she was 16 or 17 years old. J.H. remembers seeing E.K. in the house just one time when they took acid and smoked marijuana.

{¶ 34} J.H. then testified about an interview that he gave to the police after he was arrested. J.H. admitted that he lied to the police during the first interview because he was covering for himself and Turvey. J.H. was not sober for the initial interview and was high on methamphetamines, marijuana, and acid. In the interview, J.H. suggested that

K.S. wanted to be there, that she was voluntarily doing drugs like everyone else, and that she was having consensual sex with everyone.

{¶ 35} Finally, J.H. testified about text message conversations that he had with Turvey. The conversation began on February 2, 2021, when J.H. sent Turvey nude pictures of K.S., her height and weight, and her address in Georgia. Turvey responded with screen shots of different cell phone applications, which J.H. testified were the apps that Turvey wanted him to use to set up profiles for K.S. Throughout the next several days, J.H. and Turvey discussed the situation with K.S., often centering around J.H.'s insecurity arising from his unrequited feelings for K.S. J.H. frequently complained that K.S. needed to start respecting him, otherwise he would no longer be nice to her. J.H. also felt useless because he was not being desired and was annoying K.S., which led him to contemplate going home or figuring out another strategy. Turvey responded, "All I really need u to do is help move dope and contribute with ur Grindr sales tbh \* \* \* But ur not a prisoner here [for real]."

{¶ 36} A frequent theme of the text message conversations was that K.S. was treated like property to be used at Turvey's discretion. On several occasions, J.H. talked about having K.S. perform oral sex or give them handjobs: "get her to suck ur dick get ya mind off that;" "imma talk to her and if u don't mind get a blowy and then send her up there;" "Do u care if I lay my head on her lap my back is killing me;" "can u jus ask if she'll give me that massage idc either way up to u u in charge;" "imma go jack off unless

I could borrow her mouth for a minute \* \* \* if I could borrow her mouth that'd be great ion wanna f\*\*\*;" "I'll be upstairs in bed she can either come at least give me a hand job when y'all are done or this whole nice pimp situation is going down the toilet cuz it ain't working." Likewise, in one of the messages, Turvey stated "Don't f\*\*\* her while I'm gone because I'm probably going to eat her out and I want a 'clean slate' ...well, close to it anyway."

{¶ 37} In addition, J.H. and Turvey expressly discussed prostituting K.S. In one exchange, Turvey stated "I'm stressing a little bit...I might need a minute...an I'm about to lose my shit about this situation...did she seriously just try to set up a 3-way?????" J.H. responded, "She asked if it could be a possibility for more money and I said it could be for about 250 and I kinda said not a good idea she knows now not to do that shit she's catching on that it's up to u not her everything is going to work out honestly I can look at her and tell her not discuss business of any kind with me unless it's sales anything else goes to u and she'll understand but that's ur call." It then became clear that K.S. was not meeting Turvey's and J.H.'s expectations and the two discussed having conversations with her about how things were going to go. Shortly thereafter, J.H. told Turvey "Dude she really ain't about this tbh \* \* \* She gonna stay here and work the money off that was spent to get her here whether she want to or not but after that I think we need to buck it."

{¶ 38} A few days later, J.H. messaged Turvey that "she needs to be having money coming in by the end of the week or she can leave I didn't bring her up here to

shit on me and serve everyone else I'm damn near close to snapping and it ain't gonna be pretty so u can either put it to her nicely or I can do it my way cuz I'm done with the nice shit." Turvey responded, "U didn't bring her up here. I did. And I'm only concerned about making money. Stop letting feelings, that are not mutual, cloud ur judgment \* \* \* She's here to make money...period \* \* \* She's finally realizing it."

{¶ 39} The next day, on February 9, 2021, J.H. and Turvey discussed a specific transaction:

J.H.: "She's good to go when is he gonna be here"

J.H.: "Like she's not ready yet but she's calm down good to gin"

J.H.: "Go\*"

J.H.: "1 hour right"

Turvey: "Yes"

J.H.: "Ight"

J.H.: "Yo can u act like ur bringing me something or coming to talk to me and bring that knife jus in case he a big boy low key"

J.H.: "I'm putting her in the shower when she's done for the next one"

J.H.: "Wait what'd u tell her about him nutting he gets one or two or the full hour cuz she told me u said 2 times"

Turvey: "Full hour"

J.H.: “Ok”

J.H.: “She’ll be ready in 10 minutes for the next one”

J.H.: “Maybe sooner”

Turvey: “Okay”

J.H.: “And she’s gonna have a threesome wit me and u when she’s done for the night.”

{¶ 40} Lastly, the text message conversations between J.H. and Turvey included J.H. talking about how he needed to get some sales and trying to set up a trick with a man. J.H. also complained about a person that contacted him who just wanted to have sex, but did not want to pay.

{¶ 41} After J.H., E.K. testified next. E.K. stated that Turvey was her drug dealer when she was 14 or 15 years old. E.K., who was already using drugs at the time, met Turvey through the Snapchat app and identified that Turvey was a drug dealer by the emojis that he used in his screenname. E.K. lied to Turvey and told him that she was 18 years old, but she testified that one time Turvey confronted her in his car and told her that he knew she was lying about her age and that she was not actually 18 years old. E.K. testified that Turvey also could have known that she was underage because her Facebook page showed that she was born in 2006.

{¶ 42} E.K. testified that Turvey sold her acid, LSD, Xanax, and different forms of weed. At some point, Turvey began asking for pictures from E.K. in exchange for the

drugs. E.K. agreed and would send him pictures of her buttocks, breasts, and vagina, sometimes bare and sometimes in lingerie. Eventually, the transactions escalated and Turvey began asking for E.K. to perform sex acts with him in exchange for the drugs. According to E.K., Turvey asked for the sex acts somewhere between five and fifteen times. E.K. testified that on several occasions she agreed and allowed Turvey to touch her vagina, her buttocks, and her breasts. Turvey would also put his mouth on E.K.'s breasts and vagina and would perform oral sex on her, which occurred between five and ten times. E.K. stated that she never touched Turvey.

{¶ 43} In addition to the victims, the state also called Dr. Celia Williamson, who is the executive director of the Human Trafficking and Social Justice Institute at the University of Toledo, as an expert witness in the field of human trafficking, sex trafficking, and prostitution. Williamson testified that sex trafficking most often involves manipulation; the trafficker finds vulnerable people and presents solutions to their needs and in so doing begins to control them. Williamson identified several risk factors that could make a person more vulnerable to being the victim of sex trafficking: poverty, developmental disability, foreign born, minority, identifying as LGBTQ. In addition, young people who have run away or are homeless, who have had contact with child protective services or juvenile court, who use drugs, who have a mental illness, or who have trouble in school are more at risk of sex trafficking. Of those, being a runaway is the highest risk factor.

{¶ 44} Finally, the state called Toledo Police Detective Dylan James as a witness. James was the lead detective when the search warrant was executed at Turvey's residence. James testified that the search uncovered a large meth pipe in the couch, a digital scale, the syringes in the kitchen cabinet, LSD, methamphetamine, cash, and mail addressed to Turvey at the residence. James did not find any children's clothing, toys, or books in the house.

{¶ 45} James also executed a search warrant on Turvey's phone. A data extraction from the phone revealed several internet sites visited on Turvey's phone between February 3, 2021, and February 11, 2021, including searches for "Top Ten Pimping Rules List Discovered in Alleged Pimp's Crib," "Pimp vs Mack - What's the difference," the urban dictionary definition of "pimp" and "gorilla pimp," "How to Send Money Anonymously," "Ohio Prostitution and Solicitation Laws," "Pimping and Pandering Laws," "how much money does a prostitute earn on average," and "how much money does a prostitute make in one night." During that time, the phone was also used to visit K.S.'s profile pages on several dating/prostitution websites.

{¶ 46} James also identified several exhibits detailing conversations between Turvey and other contacts on his phone. Turvey's conversation with E.K. occurred between February 10, 2021, and February 13, 2021. During the course of the conversation, Turvey agreed to provide drugs to E.K. At one point, E.K. clarified that it is "2 (doses) for 15 (dollars)?" Turvey responded, in part, "As long as we're hooking up,

I'll always cut u deals...but I expect a deal from u too doe..." Later that day, E.K. texted Turvey to let him know that the drugs were not working. Turvey offered to make it right by bringing some other drugs and asked if he had to be worried about parents being awake. The next day, E.K. asked Turvey, "if I lower the price tonight could we not f\*\*\*?" Turvey responded, "[What you mean]? \* \* \* What am I paying for then? \* \* \* What u wanna do?" E.K. replied, "head whatever else." Turvey agreed, "Oh, yeah that's cool...but u gotta lower it a lot if we ain't f\*\*\*ing...and I want to eat u too fr (for real)." A little while later, E.K. asked if they could "do it in the car down the street or sum." Turvey responded, "It's not going to be easy to eat u in the car fr...and I really want to...trust me, YOU really want me to, also..." He then suggested that they use his place. A few minutes later, Turvey asked, "What's this costing? Product?" E.K. replied, "[220] bc im still a minor if u wanna do everything and if not I can drop it to 110." Turvey asked if E.K. was 17, but she did not respond to that question. The two then discussed whether they were also going to party and do drugs. They eventually agreed that they were going to party, but E.K. could not have sex with Turvey because she just had her period.

{¶ 47} On February 3, 2021, Turvey had a conversation with "Gavan." Turvey told Gavan that he was "going to Georgia tomorrow to pickup a girl...I don't want anyone that talks to [my ex-wife] to find out...but...I...am now...a Pimp. \* \* \* My first girl to da stable lol \* \* \* Life's gotten strange..." Turvey then sent naked pictures of

K.S. to Gavan and told him to “lmk (let me know) if you know anyone who might be interested \* \* \* Starts work on Friday.” Gavan responded that he would have sex with her, but he’s “not about paying.” Turvey laughed and replied, “well keep me in mind. Actually, if it comes down to it, I would consider trade.”

{¶ 48} On February 9, 2021, Turvey had conversations with multiple unknown individuals during which he offered that he had a twink and an 18-year-old girl available.

{¶ 49} On February 10, 2021, Turvey had a conversation with Darrell during which he stated, “if u know of anyone looking for a Twink (21yrs) or a girl (18 yrs) let me know...he’s \$150 and she is \$200...prices are negotiable.” Darrell offered to help Turvey get established and set up his business. Turvey welcomed the help. Darrell introduced Turvey to Mason and explained that Mason works for him and would be coming as well to give some pointers.

{¶ 50} The next day, Mason messaged Turvey asking him to explain the special deals that he had with K.S. Turvey explained that K.S. created different packages to meet different client’s needs. The “sensational care package” was \$275, and the “crazy f\*\*\* package” was \$200. In addition, K.S. still offered the standard \$150 per hour rate. Mason commented that K.S. was “catching on quick.” Mason also asked if he could take K.S. out on a date, to which Turvey replied, “She dosnt have time for dateing with her line of work and she is fully aware of this.” Mason later mentioned that he was looking

to work. Turvey offered that Mason was welcome to use a bed at his place, but “I usually charge 25% of ur earn for that jsyk.”

{¶ 51} Finally, on February 11, 2021, Turvey had a conversation with “Kevin.” Turvey offered that he had “a twink and an 18 year old girl.” Turvey sent pictures of J.H. and K.S. Kevin was very interested in K.S., and asked Turvey if they could share. Turvey responded, “Yup. She belongs to me.” Turvey then sent a meme with the phrase “I’m a pimp.” The next day, Kevin asked Turvey if he was a pimp for real, and Turvey replied, “Yup.”

{¶ 52} Following James’s testimony, the state rested. Turvey moved for an acquittal pursuant to Crim.R. 29(A), which the trial court denied. Thereafter, Turvey presented two witnesses and testified on his own behalf.

{¶ 53} Turvey first called Milton Smith as a witness. Smith was incarcerated in the Lucas County Correctional Center and while there he came into contact with J.H. Smith testified that J.H. was bragging that he was in jail for pimping and that he was going to lie about his co-defendant to give the co-defendant extra time. Smith stated that J.H. said that Turvey was his co-defendant and if he was going down, he was going to take Turvey down with him. J.H. also told Smith that before he was sent to prison, he had a plot to kill and rob Turvey.

{¶ 54} Turvey next called Anthony Daniels as a witness. Daniels was also incarcerated with J.H. in the Lucas County Correctional Center. Daniels testified that

J.H. told him that he had asked Turvey if Turvey would go to Georgia to pick up his friend who was in a bad spot. J.H. told Daniels that after Turvey picked up his friend, he wanted Turvey to “try to make her be his girlfriend somehow,” which did not happen. J.H. then got mad at Turvey and he planned to rob Turvey and kill him if things went poorly. Daniels testified that J.H. also told him that if he believed Turvey was going to beat the charges, he was going to “put false charges on him.” Finally, Daniels testified that J.H. said that there was no human trafficking happening.

{¶ 55} Turvey was the last witness to testify. Turvey testified that he was divorced, and had nine children with his ex-wife. Turvey explained that his children were taken into foster care when his youngest child was born testing positive for cocaine. In order for the children to be able to return home, Turvey had to have a bed for each child, which explains why he had the bunk beds and playpen. Turvey testified that when his divorce “got ugly,” his ex-wife stopped bringing the children around. The last time the children were over was in November 2020. Turvey stated that there was still a laundry basket full of toys in one of the bedroom closets, and a small bag of children’s clothes in the downstairs closet.

{¶ 56} Turvey next testified that he met J.H. through an online app. Turvey testified that J.H. was dating a “Michael” at the time, but the two eventually broke up. Turvey then explained that one time everyone was at his house partying when J.H. invited “Mike” over. J.H. and Mike “hooked up,” but Turvey testified that he did not

have any involvement in that and he was not aware at the time that any money was exchanged.

{¶ 57} Regarding picking up K.S., Turvey testified that he was initially reluctant, but because K.S. was being neglected and was in a bad position at her home, he agreed to go pick her up. Turvey testified that since he was supposed to start working at the Ford Motor Company in 30 days, he was not seeking to provide K.S. a long-term solution. Turvey offered for J.H. to come with him, but J.H. declined, saying that he had an open warrant. Turvey had difficulty locating the driveway where he was supposed to pick up K.S., and eventually saw her walking down the middle of the street towards him at around midnight. The two then began their trip back to Toledo, stopping in Atlanta to eat and spend the night. Turvey testified that it was a normal road trip and they spent a lot of time talking about past relationships. They did not talk about any expectations that Turvey had for K.S., other than he expected her to help cook and clean up after herself.

{¶ 58} Turvey also testified that any statements that he was controlling J.H. or K.S. were completely false. Turvey testified that J.H. and K.S. wanted to come to his house and he never told them that they had to stay and could not leave. Turvey also testified that K.S. was never tied up or restrained in any way and he never would have let that happen. Rather than controlling them, Turvey tried to help them by buying J.H. a tattoo gun so that J.H. could make some money in a way other than prostituting himself, which he had been doing before he met Turvey. Turvey also tried to counsel K.S. to tell

her that she did not need to be prostituting herself and that she should set positive goals such as finishing high school and pursuing her interest in becoming an EMT.

{¶ 59} On February 13, 2021, Turvey asked J.H. and K.S. to leave. Turvey stated that he was tired of them using his phone to try to set up prostitution appointments for themselves. Turvey explained that there were two phones between the three of them, which was why he bought a phone for K.S., but J.H. and K.S. still used his phone. Turvey told them that they did not have to leave right away, but that the party was over, and he needed to start work on March 1. That night is when the police arrived, and Turvey said he did not understand why K.S. would call the police when she was free to leave at anytime.

{¶ 60} On the topic of drugs, Turvey testified that he, J.H., and K.S. used methamphetamine, either by smoking it or injecting it. Turvey and K.S. could not inject the methamphetamine themselves, so they needed help to do it. Turvey testified that they also sometimes used acid, but a lot less frequently than the methamphetamine. Turvey stated that he did not control the drugs, but rather the drugs were there for whoever wanted to use them.

{¶ 61} Turvey then explained the conversations that were recorded from his phone. Turvey testified that the statements regarding prostitution were actually from J.H. or K.S. using his phone. Turvey denied sending any of the incriminating messages, and instead insisted that it was J.H. and K.S. using his phone, referring to themselves in the

third person, and sending explicit pictures of themselves. Finally, as to his conversation with E.K., Turvey did not deny that the conversations occurred and that he sold her drugs, but he did deny ever having any sexual contact with her.

{¶ 62} Following Turvey's testimony, the defense rested. Turvey renewed his Crim.R. 29(A) motion for acquittal, which the trial court again denied. After receiving their instructions, the jury deliberated and returned with a verdict of guilty on all counts.

{¶ 63} At the subsequent sentencing hearing, in case No. CR0202101264 involving the victim K.S., the trial court found that the counts of abduction, compelling prosecution, and trafficking in persons merged, with the state electing to proceed on the count of trafficking in persons. The trial court sentenced Turvey to an indefinite prison term of 14 to 21 years on the count of trafficking in persons, 7 to 10 1/2 years on the count of kidnapping, and 7 to 10 1/2 years on the count of corrupting another with drugs. The trial court further ordered those sentences to be served consecutively with one another.

{¶ 64} In case No. CR0202102424 involving the victim J.H., the trial court found that the counts of compelling prostitution and trafficking in persons merged, with the state electing to proceed on the count of trafficking in persons. The trial court sentenced Turvey to an indefinite prison term of 14 to 21 years. The court ordered that sentence to be served consecutively to the sentence in case No. CR0202101264.

{¶ 65} In case No. CR0202103081 involving the victim E.K., the trial court found that none of the counts merged. The court sentenced Turvey to serve an indefinite prison term of 7 to 10 1/2 years on each of the four counts of corrupting another with drugs, 5 years on each of the four counts of unlawful sexual conduct with a minor, and 11 months on each of the four counts of importuning. The court ordered the sentences for the counts of corrupting another with drugs and unlawful sexual conduct with a minor to be served consecutively to each other, and consecutively to the sentences imposed in case Nos. CR0202101264 and CR0202102424. The court ordered the sentences for the counts of importuning to be served consecutively to each other, but concurrently with all the other sentences.

{¶ 66} In total, the trial court ordered Turvey to serve an indefinite prison term with a minimum of 90 years.

## **II. Assignments of Error**

{¶ 67} Turvey has timely appealed his judgment of conviction, and now asserts five assignments of error:

1. Turvey's convictions involving the female victims were based on insufficient evidence and/or were against the manifest weight of the evidence.
2. Turvey's convictions were based on insufficient evidence and/or were against the manifest weight of the evidence in case CR 21-2424.

3. The trial court abused its discretion by failing to merge all appropriate sentences on the basis of allied offenses of similar import.

4. The trial court erred by imposing a 90-year sentence in violation of the Eighth Amendment to the United States Constitution's prohibition against cruel and unusual punishment.

5. The trial court erred by imposing consecutive sentences for an aggregate minimum sentence of 90-years which is disproportionate to the harm caused in this matter.

### **III. Analysis**

#### **A. Sufficiency and Manifest Weight**

{¶ 68} In his first and second assignments of error, Turvey contends that each of his convictions are based on insufficient evidence and are against the manifest weight of the evidence. Each case will be addressed in turn.

{¶ 69} “Insufficiency and manifest weight are distinct legal theories.” *State v. Fenderson*, 6th Dist. Erie No. E-21-018, 2022-Ohio-1973, ¶ 73. “In reviewing a record for sufficiency, ‘[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.*, quoting *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus. In contrast, when reviewing a manifest weight claim,

[t]he court, 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 jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. The discretionary power to grant a new trial should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction.

*Id.*, quoting *State v. Lang*, 129 Ohio St.3d 512, 2011-Ohio-4215, 954 N.E.2d 596, ¶ 220, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997).

## **1. Case No. CR0202101264**

### **a. Trafficking in Persons**

{¶ 70} In the first count, Turvey was convicted of trafficking in persons in violation of R.C. 2905.32(A)(1), which provides, “No person shall knowingly recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain \* \* \* another person if either of the following applies: (1) The offender knows that the other person will be subjected to involuntary servitude or be compelled to engage in sexual activity for hire, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.”

{¶ 71} Turvey argues that the evidence shows that J.H. and K.S. discussed K.S. coming to Toledo to escape a poor living situation in Georgia. Turvey drove down to Georgia to pick up K.S. because she did not have an ID and was unable to travel by plane or bus. Turvey also informed her that he was not providing her a permanent living situation as he was expecting to return to work at Ford in about a month. Turvey further argues that while there was uncontroverted evidence of significant drug use, the drugs were available to everyone and K.S. did not take the drugs against her will. Relatedly, Turvey contends that K.S. was never locked in a closet or restrained against her will, and to the extent that J.H. testified otherwise, Smith and Daniels testified that J.H. bragged that he was going to present false testimony against Turvey. Thus, Turvey concludes that his conviction for trafficking in persons is based on insufficient evidence and is against the manifest weight of the evidence.

{¶ 72} Contrary to Turvey's position, the evidence in the record supports his conviction. It is undisputed that Turvey knowingly transported K.S. from Georgia to Toledo. Further, the evidence shows that Turvey did so knowing that K.S. would be subjected to involuntary servitude or compelled to engage in sexual activity for hire. J.H. testified that when he asked Turvey about helping K.S., Turvey thought it was a good idea and proposed bringing her to Toledo to turn tricks. The text messages between Turvey and J.H. also show that Turvey planned to advertise K.S.'s services in that he obtained K.S.'s height and weight as well as nude photographs of her, and he sent J.H. a

list of apps on which he wanted to create accounts for K.S. On or near the time that Turvey was travelling to pick up K.S., he searched on his phone for pimping rules and bragged to Gavan that he was now a pimp and had his first girl in “da stable.” Turvey then sent nude pictures of K.S. to Gavan and said to let him know if there was anyone that was interested and that she would start work on Friday.

{¶ 73} Viewing this evidence in a light most favorable to the prosecution, a rational juror could have found the elements of trafficking in persons proven beyond a reasonable doubt. Moreover, this is not a case where the evidence weighs heavily against the conviction and the jury did not clearly lose its way when it found Turvey guilty. Therefore, Turvey’s conviction for trafficking in persons is not based on insufficient evidence or against the manifest weight of the evidence.

#### **b. Kidnapping with Human Trafficking Specification**

{¶ 74} In the second count, Turvey was convicted of kidnapping in violation of R.C. 2905.01(A)(2), which provides, “No person, by force, threat, or deception \* \* \* shall remove another from the place where the other person is found or restrain the liberty of the other person, for any of the following purposes: \* \* \* (2) To facilitate the commission of any felony or flight thereafter.” “Restraining an individual’s liberty means limiting or restraining their freedom of movement. The restraint need not be for any specific duration or in any specific manner.” *State v. Logan*, 2017-Ohio-8932, 101

N.E.3d 572, ¶ 12 (3d Dist.), quoting *State v. Williams*, 2017-Ohio-5598, 93 N.E.3d 449, ¶ 19 (10th Dist.).

{¶ 75} Turvey was also convicted of knowingly committing the offense in furtherance of human trafficking as specified in R.C. 2941.1422. “Human trafficking” is defined, in part, as “a scheme or plan \* \* \* to compel a victim or victims to engage in sexual activity for hire, to engage in a performance that is obscene, sexually oriented, or nudity oriented, or to be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.” R.C. 2929.01(AAA)(1)(a).

{¶ 76} Turvey argues that K.S. voluntarily came to Toledo and she could leave anytime. Turvey points to the fact that there were times where he was not around the home and J.H. and K.S. were there together. Turvey also notes that he purchased a phone for K.S., and it was not until he told her that she had to find other living arrangements that K.S. called her mother who called the police. Thus, Turvey concludes that K.S.’s liberty was not restrained and his conviction for kidnapping is based on insufficient evidence or is against the manifest weight of the evidence.

{¶ 77} The state, on the other hand, argues that the testimony establishes that Turvey restrained K.S.’s liberty through fear by yelling at her and striking her in the head, and by depriving her of any independence in clothing, food, money, or shelter, thereby preventing her from leaving Turvey’s residence. K.S. also testified that she was kept in a constant state of being under the influence of drugs. In addition, K.S.’s and

J.H.'s testimony show that K.S. was at times locked in a closet or car shed if she refused to prostitute herself.

{¶ 78} When viewing this evidence in the light most favorable to the prosecution, a rational juror could have found beyond a reasonable doubt that Turvey, by threat and force, restrained K.S.'s liberty for the purpose of committing a felony offense in furtherance of human trafficking by compelling K.S. to engage in prostitution. Locking K.S. in the closet or car shed when she refused to take drugs or prostitute herself constitutes a restraint of K.S.'s liberty through force for the purpose of corrupting her with drugs or compelling her to engage in sexual activity for hire. Therefore, Turvey's conviction for kidnapping with a human trafficking specification is not based on insufficient evidence.

{¶ 79} Nor is the conviction against the manifest weight of the evidence. Turvey, K.S., and J.H. gave contradictory testimony. Turvey claimed that he never restrained K.S. and would never have allowed that to happen. K.S. testified that Turvey injected her with drugs, forced her to prostitute herself, and had her locked in a closet or car shed if she did not comply. J.H. testified that he locked K.S. in a closet and that everything was done at the direction of Turvey. Upon review of the record, K.S. and J.H. are the more credible witnesses as their general testimony is supported by the physical evidence located at the house consisting of drugs, beds and condoms, as well as the phone records and text messages which depict Turvey's efforts to control and sell J.H. and K.S. In the

same way, Turvey's general denials are not supported by the record. Thus, when weighing the evidence and considering the credibility of the witnesses, this is not a case where the jury clearly lost its way and created a manifest miscarriage of justice.

{¶ 80} Therefore, Turvey's conviction for kidnapping with a human trafficking specification is not based on insufficient evidence or against the manifest weight of the evidence.

**c. Abduction with Human Trafficking Specification and Compelling Prostitution**

{¶ 81} In the third and fourth counts, Turvey was convicted of abduction in violation of R.C. 2905.02(A)(3) with a human trafficking specification under R.C. 2941.1422 and compelling prostitution in violation of R.C. 2907.21(A)(1), respectively. Again, Turvey argues that his convictions are based on insufficient evidence and against the manifest weight of the evidence. However, the counts of abduction and compelling prostitution were merged with the count of trafficking in persons for purposes of sentencing. "[W]hen counts in an indictment are allied offenses, and there is sufficient evidence to support the offense on which the state elects to have the defendant sentenced, the appellate court need not consider the sufficiency of the evidence on the count that is subject to merger because any error would be harmless." *State v. Allen*, 6th Dist. Wood No. WD-21-069, 2022-Ohio-3493, ¶ 24, quoting *State v. Ramos*, 8th Dist. Cuyahoga No. 103596, 2016-Ohio-7685, ¶ 14, citing *State v. Powell*, 49 Ohio St.3d 255, 263, 552 N.E.2d 191 (1990). Therefore, because Turvey's conviction for trafficking in persons is

based upon sufficient evidence and is not against the manifest weight of the evidence, Turvey's arguments pertaining to the merged counts of abduction and compelling prostitution need not be considered.

#### **d. Corrupting Another with Drugs**

{¶ 82} In the fifth count, Turvey was convicted of corrupting another with drugs in violation of R.C. 2925.02(A)(3), which provides, "No person shall knowingly do any of the following: \* \* \* (3) By any means, administer or furnish to another or induce or cause another to use a controlled substance, and thereby cause serious physical harm to the other person, or cause the other person to become a person with drug dependency."

{¶ 83} Turvey contends that his conviction is based on insufficient evidence and against the manifest weight of the evidence because while it was uncontroverted that drugs were used, a dispute existed regarding whether K.S. was forcibly injected. Turvey also argues that the testimony that K.S. became addicted to methamphetamine during the ten days that she was living with him was not further supported by any medical evidence.

{¶ 84} The uncontroverted evidence at trial established that Turvey knowingly administered or furnished drugs, specifically methamphetamine, to K.S. "Furnish" means "[t]o supply, provide, or equip, for accomplishment of a particular purpose." *State v. Haynes*, 2020-Ohio-1049, 152 N.E.3d 1217, ¶ 30 (6th Dist.), quoting *State v. Schwab*, 4th Dist. Athens No. 12CA39, 2014-Ohio-336, ¶ 9. Regardless of whether K.S. was

forcibly injected, there is no dispute that Turvey supplied or provided the methamphetamine.

{¶ 85} As to whether the furnishing of the methamphetamine caused serious physical harm to K.S. or caused K.S. to become drug dependent, J.H. testified that on one occasion K.S. received such a large dose that she began convulsing and then stopped breathing. J.H. had to resuscitate K.S. by performing mouth-to-mouth. Additionally, K.S. and J.H. both testified that K.S. was addicted to methamphetamine by the time she was rescued from Turvey's house.

{¶ 86} Viewing this evidence in the light most favorable to the prosecution, a rational juror could have found beyond a reasonable doubt that Turvey knowingly furnished methamphetamine to K.S., thereby causing serious physical harm or causing her to become drug dependent. Moreover, no contradictory evidence exists to demonstrate that the jury clearly lost its way and its finding of guilt was a manifest miscarriage of justice. Therefore, Turvey's conviction for corrupting another with drugs is not based on insufficient evidence or against the manifest weight of the evidence.

## **2. Case No. CR0202102424**

### **a. Trafficking in Persons**

{¶ 87} In the first count, Turvey was convicted of trafficking in persons in violation of R.C. 2905.32(A)(1), which provides, "No person shall knowingly recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain \* \* \* another person if

either of the following applies: (1) The offender knows that the other person will be subjected to involuntary servitude or be compelled to engage in sexual activity for hire, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.” “[T]he element ‘compelled’ does not require that the compulsion be openly displayed or physically exerted. The element ‘compelled’ has been established if the state proves that the offender overcame the victim’s will by force, fear, duress, intimidation, or fraud, by furnishing or offering a controlled substance to the victim, or by manipulating the victim’s controlled substance addiction.” R.C. 2905.32(B).

{¶ 88} Turvey argues that he did not force J.H. to come live with him and did not prohibit J.H. from leaving. Instead, J.H. placed himself in the position he was in because he had an open warrant, which prevented him from getting a job, which prevented him from having transportation. Turvey contends that unlike K.S., there is no allegation that J.H. was injected with drugs to control his actions or that he was locked in a closet if he complained about the drugs.

{¶ 89} The state, on the other hand, argues that J.H.’s services were offered by Turvey to numerous cell phone contacts. In addition, J.H. testified that he performed sexual acts for money, which was paid to Turvey. J.H. was also expected to sell drugs for Turvey, and he received no portion of the proceeds from those sales. The state also argues that the evidence establishes that Turvey compelled J.H. by providing him

methamphetamine and aiding his relapse. Finally, J.H. testified that he believed Turvey would have kicked him out of the house if he stopped making money by selling drugs or his sexual services, thereby demonstrating that J.H. was compelled by fear or duress.

{¶ 90} Indeed, the evidence shows that Turvey harbored or maintained J.H. and did so knowing that J.H. would be compelled to engage in sexual activity for hire. It is undisputed that J.H. lived with Turvey. Further, J.H. testified that Turvey encouraged him to sell his body and that Turvey was paid for a sexual encounter between J.H. and Mike. Turvey's text messages also clearly advertise J.H.'s sexual services. J.H. testified that he never made any money from these transactions, but instead was furnished drugs. J.H. also testified that he felt like he could not leave Turvey's residence because he had an open warrant, had no money, clothes, food, or transportation, and had nowhere to go.

{¶ 91} Viewing this evidence in the light most favorable to the prosecution, a rational juror could have found beyond a reasonable doubt that Turvey knowingly harbored or maintained J.H., knowing that he would be compelled to engage in sexual activity for hire. Thus, Turvey's conviction for trafficking in persons is not based on insufficient evidence.

{¶ 92} Regarding whether the conviction was against the manifest weight of the evidence, Turvey notes that two defense witnesses testified that J.H. bragged about wanting to lie in his testimony against Turvey, thereby calling J.H.'s credibility into question. However, in light of the phone messages between Turvey, J.H., and others, and

the overall course of events that occurred in early February 2021 wherein Turvey, a 42-year-old man, brought in and harbored a 21-year-old boy and an 18-year-old girl, admittedly provided them with drugs, participated in sexual acts with them, and advertised their sexual services to others, the jury did not clearly lose its way when it relied on J.H.'s testimony. Therefore, this is not the exceptional case where the jury created a manifest miscarriage of justice. Turvey's conviction for trafficking in persons is not against the manifest weight of the evidence.

#### **b. Compelling Prostitution**

{¶ 93} In the second count, Turvey was found guilty of compelling prostitution in violation of R.C. 2907.21(A)(1). Like the count in case No. CR0202101264, this count was merged with the count of trafficking in persons for purposes of sentencing. Thus, this court need not consider whether the count of compelling prostitution was based on insufficient evidence or against the manifest weight of the evidence. *See Allen*, 6th Dist. Wood No. WD-21-069, 2022-Ohio-3493, at ¶ 24.

### **3. Case No. 0202103081**

#### **a. Corrupting Another with Drugs**

{¶ 94} Turvey was found guilty of four counts of corrupting another with drugs in violation of R.C. 2925.02(A)(4)(a), which provides, "No person shall knowingly do any of the following: \* \* \* (4) By any means, do any of the following: (a) Furnish or

administer a controlled substance to a juvenile who is at least two years the offender's junior, when the offender knows the age of the juvenile or is reckless in that regard."

{¶ 95} In his brief, Turvey only contests the element that he knew that E.K. was a juvenile or was reckless in that regard. Turvey contends that he believed that E.K. was 18 years old, and thus his convictions are based on insufficient evidence or are against the manifest weight of the evidence.

{¶ 96} At trial, E.K. testified that she was 14 years old during the times that Turvey sold her drugs. Both K.S. and J.H. testified that E.K. looked between 14 and 16 years old. J.H. also testified that Turvey showed him E.K.'s Facebook page, which listed her age and indicated she was a minor. In addition, Turvey's text messages with E.K. depict him asking if he needed to be concerned about parents being around and E.K. informing him that certain sexual services were more expensive because she was a minor. E.K. also testified that she told Turvey that she was 18, but Turvey confronted her and told her that he knew she was not.

{¶ 97} Viewing this evidence in a light most favorable to the prosecution, a rational juror could have found beyond a reasonable doubt that Turvey knew E.K. was a juvenile or was reckless in that regard. Moreover, this is not the exceptional case in which the jury clearly lost its way. Therefore, Turvey's convictions for corrupting another with drugs are not based on insufficient evidence or against the manifest weight of the evidence.

### **b. Unlawful Sexual Conduct with a Minor**

{¶ 98} Turvey was also convicted of four counts of unlawful sexual conduct with a minor in violation of R.C. 2907.04(A), which provides, “No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.”

{¶ 99} Turvey denies that he engaged in any sexual conduct with E.K. Furthermore, Turvey contends that he did not know that E.K. was less than 16 years old and was not reckless in that regard. Having addressed the issue regarding E.K.’s age above in the counts of corrupting another with drugs, this section will focus on Turvey’s claim that he did not have any sexual conduct with E.K.

{¶ 100} At the trial, E.K. testified that Turvey performed oral sex on her between five and ten times. Under R.C. 2907.01(A), “sexual conduct” includes “cunnilingus between persons regardless of sex.” In addition, Turvey’s denials of any sexual conduct are belied by his text messages with E.K. in which she asks him if she lowers the price could they not have sex, to which Turvey responds by asking what he was paying for then. The text messages also include discussion of Turvey’s desire to perform oral sex, and the difficulty of performing oral sex in a car.

{¶ 101} Viewing this evidence in a light most favorable to the prosecution, a rational juror could have found beyond a reasonable doubt that Turvey engaged in sexual

conduct with E.K. Moreover, this is not the exceptional case where the jury lost its way. Therefore, Turvey’s convictions for unlawful sexual conduct with a minor are not based on insufficient evidence or against the manifest weight of the evidence.

### **c. Importuning**

{¶ 102} Finally, Turvey was convicted of four counts of importuning in violation of R.C. 2907.07(B)(1),<sup>2</sup> which provides, “No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of the other person.”

{¶ 103} In this case, E.K. testified that Turvey asked her for sex acts between five and fifteen times. Turvey again denies having any sexual conduct with E.K., but does not deny sending the explicit text messages. Instead, Turvey relies on his arguments pertaining to E.K.’s age, which have already been discussed.

{¶ 104} Therefore, because a rational juror could find beyond a reasonable doubt that Turvey solicited E.K. to engage in sexual conduct with him, his convictions for importuning are not based on insufficient evidence. Likewise, Turvey’s convictions are not against the manifest weight of the evidence.

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<sup>2</sup> R.C. 2907.07 was amended effective April 3, 2023. This decision will refer to the previous version in effect during the time of Turvey’s conduct and trial.

#### 4. Summary

{¶ 105} Having found that all of the counts that Turvey was found guilty of, and which did not merge, were not based on insufficient evidence or against the manifest weight of the evidence, Turvey's first and second assignments of error are not well-taken.

##### B. Allied Offenses

{¶ 106} In his third assignment of error, Turvey argues that that trial court erred when it failed to merge several of his offenses. In case No. CR0202101264, Turvey argues that the offense of kidnapping should have merged with the other offenses of trafficking in persons, abduction with a human trafficking specification, and compelling prostitution. In case No. CR0202103081, Turvey argues that the four counts of sexual conduct with a minor should have merged with the correlating four counts of importuning.

{¶ 107} "R.C. 2941.25 codifies the protections of the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution and Section 10, Article 1 of the Ohio Constitution, which prohibit multiple punishments for the same offense." *State v. Rogers*, 6th Dist. Erie Nos. E-21-027, E-21-031, 2022-Ohio-4126, ¶ 16. That section provides,

(A) Where the same conduct by defendant can be construed to constitute two or more allied offenses of similar import, the indictment or

information may contain counts for all such offenses, but the defendant may be convicted of only one.

(B) Where the defendant's conduct constitutes two or more offenses of dissimilar import, or where his conduct results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each, the indictment or information may contain counts for all such offenses, and the defendant may be convicted of all of them.

R.C. 2941.25.

{¶ 108} The test for determining whether allied offenses should be merged is well-established:

As a practical matter, when determining whether offenses are allied offenses of similar import within the meaning of R.C. 2941.25, courts must ask three questions when defendant's conduct supports multiple offenses: (1) Were the offenses dissimilar in import or significance? (2) Were they committed separately? and (3) Were they committed with separate animus or motivation? An affirmative answer to any of the above will permit separate convictions. The conduct, the animus, and the import must all be considered.

*State v. Bailey*, Slip Opinion No. 2022-Ohio-4407, ¶ 10, quoting *State v. Earley*, 145 Ohio St.3d 281, 2015-Ohio-4615, 49 N.E.3d 266, ¶ 12, quoting *State v. Ruff*, 143 Ohio

St.3d 114, 2015-Ohio-995, 34 N.E.3d 892, ¶ 31. “[T]wo or more offenses of dissimilar import exist within the meaning of R.C. 2941.25(B) when the defendant’s conduct constitutes offenses involving separate victims or if the harm that results from each offense is separate and identifiable.” *Ruff* at ¶ 23.

{¶ 109} “The defendant bears the burden of establishing his entitlement to the protection, provided by R.C. 2941.25, against multiple punishments for a single criminal act.” *State v. Washington*, 137 Ohio St.3d 427, 2013-Ohio-4982, 999 N.E.2d 661, ¶ 18, quoting *State v. Mughni*, 33 Ohio St.3d 65, 67, 514 N.E.2d 870 (1987); *State v. Smith*, 6th Dist. Lucas No. L-22-1141, 2023-Ohio-866, ¶ 10. “An appellate court reviews de novo whether offenses should be merged as allied offenses under R.C. 2941.25. *Smith* at ¶ 10, citing *Bailey* at ¶ 6.

### **1. Case No. CR0202101264**

{¶ 110} In support of his assignment of error, Turvey argues that the count of kidnapping should have merged with the other offenses of trafficking in persons, abduction with a human trafficking specification, and compelling prostitution. However, because the trial court already merged the abduction and compelling prostitution offenses with the trafficking in persons offense, the relevant inquiry is narrowed to whether the offense of kidnapping also should have merged with the offense of trafficking in persons.

{¶ 111} Here, Turvey was convicted of trafficking in persons in violation of R.C. 2905.32(A)(1), which provides, “No person shall knowingly recruit, lure, entice, isolate,

harbor, transport, provide, obtain, or maintain \* \* \* another person if either of the following applies: (1) The offender knows that the other person will be subjected to involuntary servitude or be compelled to engage in sexual activity for hire, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.” Turvey was also convicted of kidnapping in violation of R.C. 2905.01(A)(2), which provides, “No person, by force, threat, or deception \* \* \* shall remove another from the place where the other person is found or restrain the liberty of the other person, for any of the following purposes: \* \* \* (2) To facilitate the commission of any felony or flight thereafter.”

{¶ 112} Turvey contends that all of the charges result from the same set of circumstances. In particular, K.S. was brought to Ohio and did not have transportation to leave, was compelled to ingest drugs, and was compelled to prostitute herself and perform some housekeeping chores in the residence. Thus, Turvey argues that the harm caused to K.S. was not separate and identifiable, and therefore the offenses were similar in import and should have merged.

{¶ 113} Turvey’s argument focuses on the first of the three questions that must be asked when determining whether offenses are subject to merger, but this case is easily resolved under the second question: whether the offenses were committed separately. Here, as discussed in his assignment of error on sufficiency and manifest weight, Turvey

committed trafficking in persons when he picked up K.S. in Georgia and transported her to Toledo, knowing that she was going to be compelled to engage in sexual activity for hire. The next day, and for several days thereafter, Turvey committed the offense of kidnapping when he kept K.S. high on methamphetamine and had her locked in a closet or car shed when she resisted taking the drugs or performing prostitution. Therefore, the offenses of trafficking in persons and kidnapping were committed separately and the trial court did not err in not merging the two.

## **2. Case No. CR0202103081**

{¶ 114} Similarly, Turvey argues that the correlating offenses of unlawful sexual conduct with a minor and importuning should have merged because the harm was not separate and distinct. Further, he contends that the conduct which arose from the text messages constituted one continuous bad act, which occurred four times.

{¶ 115} Upon review, the offenses of unlawful sexual conduct with a minor and importuning do not merge in this case because they were committed separately. The testimony and evidence establish that Turvey would solicit sexual acts, usually through electronic means. Later, Turvey would commit the sexual act. Thus, the offenses are based on separate types of conduct committed at different times. Therefore, the trial court did not err in not merging the correlating offenses of unlawful sexual conduct with a minor and importuning.

### 3. Summary

{¶ 116} Because Turvey has not established that he was entitled to protection against receiving multiple punishments for the same offense, his Double Jeopardy claim must fail. Accordingly, Turvey’s third assignment of error is not well-taken.

#### C. Cruel and Unusual Punishment

{¶ 117} In his fourth assignment of error, Turvey argues that his 90-year minimum prison sentence constitutes cruel and unusual punishment.

{¶ 118} The Eighth Amendment to the United States Constitution provides that “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” This provision applies to the states pursuant to the Fourteenth Amendment. *State v. Hairston*, 118 Ohio St.3d 289, 2008-Ohio-2338, 888 N.E.2d 1073, ¶ 12, citing *Robinson v. California*, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962). The same restriction is set forth in Article I, Section 9 of the Ohio Constitution.

{¶ 119} “Historically, the Eighth Amendment has been invoked in extremely rare cases, where it has been necessary to protect individuals from inhumane punishment such as torture or other barbarous acts.” *State v. Weitbrecht*, 86 Ohio St.3d 368, 370, 715 N.E.2d 167 (1999), citing *Robinson* at 676 (Douglas, J., concurring). “Over the years, it has also been used to prohibit punishments that were found to be disproportionate to the crimes committed.” *Id.* The rare cases where cruel and unusual punishments have been found involved “sanctions which under the circumstances would be considered shocking

to any reasonable person.” *Id.* at 371, quoting *McDougle v. Maxwell*, 1 Ohio St.2d 68, 70, 203 N.E.2d 334 (1964). “Furthermore, ‘the penalty must be so greatly disproportionate to the offense as to shock the sense of justice of the community.’” *Id.*, quoting *McDougle* at 70.

{¶ 120} While Turvey acknowledges that none of his individual sentences are contrary to law, Turvey contends that the aggregate prison term is disproportionate to his conduct and rises to a level that shocks the conscience. In *Hairston*, the Ohio Supreme Court rejected this reasoning and expressly held, “[F]or purposes of the Eighth Amendment and Section 9, Article I of the Ohio Constitution, proportionality review should focus on individual sentences rather than on the cumulative impact of multiple sentences imposed consecutively.” *Hairston* at ¶ 20. “Where none of the individual sentences imposed on an offender are grossly disproportionate to their respective offenses, an aggregate prison term resulting from consecutive imposition of those sentences does not constitute cruel and unusual punishment.” *Id.*; *see also State v. Neff*, 6th Dist. Ottawa No. OT-20-004, 2021-Ohio-3766, ¶ 70 (citing *Hairston* and concluding that a 25-year aggregate prison term that resulted from the consecutive imposition of reasonable individual sentences was not grossly disproportionate); *State v. Laraby*, 6th Dist. Lucas No. L-22-1161, 2023-Ohio-741.

{¶ 121} Here, each of Turvey’s individual sentences are within the statutory range. “As a general rule, a sentence that falls within the terms of a valid statute cannot amount

to a cruel and unusual punishment.” *McDougle* at 69; *see also State v. Ramirez*, 6th Dist. Lucas No. L-11-1263, 2013-Ohio-843, ¶ 19. Because Turvey’s individual prison sentences are not grossly disproportionate to their respective offenses, his aggregate 90-year minimum prison term does not constitute cruel and unusual punishment.

{¶ 122} Accordingly, Turvey’s fourth assignment of error is not well-taken.

#### **D. Consecutive Sentences**

{¶ 123} Finally, in his fifth assignment of error, Turvey argues that the trial court erred when it found that imposing consecutive sentences to the point of a 90-year minimum prison term was necessary to protect the public and was proportionate to his conduct. Turvey asserts that because he was 45 years old at the time of his sentencing, the 48-year minimum prison term imposed in case No. 0202103081 was effectively a life sentence, and anything beyond a life sentence is unnecessary.

{¶ 124} R.C. 2929.14(C)(4) provides that a trial court may impose consecutive sentences on an offender if it finds “that the consecutive service is necessary to protect the public from future crime or to punish the offender,” “that consecutive sentences are not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public,” and that one of the following circumstances exists:

- (a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction

imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

Notably, Turvey does not argue that R.C. 2929.14(C)(4) itself is unconstitutional under the Eighth Amendment to the United States Constitution or Article I, Section 9 of the Ohio Constitution.

{¶ 125} When imposing consecutive sentences, “[t]he trial court must engage in the correct analysis, state its statutory findings during the sentencing hearing, and incorporate those findings into its sentencing entry.” *State v. Gregory*, 6th Dist. Lucas Nos. L-21-1106, L-21-1107, 2023-Ohio-331, ¶ 110, citing *State v. Beasley*, 153 Ohio St.3d 497, 2018-Ohio-493, 108 N.E.3d 1028, ¶ 253; *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, ¶ 37. “[W]hen a sentencing court makes the statutory findings under R.C. 2929.14(C)(4) for consecutive sentences, it must consider the

number of sentences that it will impose consecutively along with the defendant's aggregate sentence that will result." *State v. Gwynne*, Slip Opinion No. 2022-Ohio-4607, ¶ 12.<sup>3</sup> "[U]pon a de novo review of the record, an appellate court may reverse or modify a defendant's consecutive sentences—including the number of consecutive sentences imposed—when it clearly and convincingly finds that the record does not support the trial court's findings." *Id.*; R.C. 2953.08(G)(2)(a). "Clear and convincing evidence is that measure or degree of proof which is more than a mere 'preponderance of the evidence,' but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established." *Id.* at ¶ 19, quoting *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954), paragraph three of the syllabus.

{¶ 126} Here, the trial court engaged in the correct analysis, stated its statutory findings during the sentencing hearing, and incorporated those findings in its sentencing entry. It found that consecutive sentences were "necessary to protect the public from future crime or to punish the offender and are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public." The trial court also found under R.C. 2929.14(C)(4)(b) that the harm caused was so great or unusual that no single prison term is adequate.

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<sup>3</sup> Notably, an application for reconsideration was filed in *Gwynne* on January 3, 2023, and remains pending at the time of this decision.

{¶ 127} Turvey contests the court’s findings that consecutive sentences totaling a minimum of 90 years are necessary to protect the public and are not disproportionate to the seriousness of his conduct and the danger he poses. Reviewing the record de novo, we do not clearly and convincingly find that the record does not support the trial court’s findings. The record demonstrates that a 42-year-old man preyed upon and exploited a highly vulnerable 18-year-old girl and 21-year-old boy, actively participated in the involuntary injection of illicit substances into one of his victims and then zealously prostituted both of them. Simultaneously, this 42-year-old man repeatedly provided drugs to a 14 or 15-year-old girl, solicited her participation in his sexual desires, and on multiple occasions performed those sexual acts on her. These facts do not lead us to a firm belief that what is effectively a life sentence is not necessary to protect the public from Turvey. Nor do we have a firm belief that the sentence is disproportionate to Turvey’s conduct. Therefore, the trial court did not err in imposing the consecutive sentences in this case.

{¶ 128} Accordingly, Turvey’s fifth assignment of error is not well-taken.

#### **IV. Conclusion**

{¶ 129} For the foregoing reasons, the judgment of the Lucas County Court of Common Pleas is affirmed. Turvey is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

State of Ohio  
v. Sean Turvey  
L-22-1112, L-22-1113, L-22-1114

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.  
*See also* 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, J.

JUDGE

Christine E. Mayle, J.

JUDGE

Charles E. Sulek, J.  
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.supremecourt.ohio.gov/ROD/docs/>.