

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

State of Ohio

Court of Appeals No. {48}L-25-00185

Appellee

Trial Court No. CR0202402307

v.

Antonio Gaston

DECISION AND JUDGMENT

Appellant

Decided: August 21, 2026

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Aaron Hill, Assistant Prosecuting Attorney, for appellee.

Karin L. Coble, for appellant.

* * * * *

DUHART, J.

{¶ 1} Appellant, Antonio Gaston, appeals the August 5, 2025 judgment of the Lucas County Common Pleas Court. For the reasons that follow, we affirm in part, and reverse in part.

I. Background

{¶ 2} Gaston was charged with one count of trafficking in a fentanyl related compound, in violation of R.C. 2925.03(A)(2) and (C)(9)(d), a felony of the second degree (Count 1), one count of possession of a fentanyl related compound, in violation of R.C. 2925.11(A) and (C)(11), a felony of the third degree (Count 2), trafficking in cocaine, in violation of R.C. 2925.03(A)(2) and (C)(4)(c), a felony of the third degree (Count 3), and one count of possession of cocaine, in violation of R.C. 2925.11(A) and (C)(4)(b), a felony of the fourth degree (Count 4).

A. Trial

{¶ 3} The matter proceeded to trial, and the following relevant testimony was presented by the State.¹

1. Testimony of Officer Patrick Fisher

{¶ 4} The first witness presented by the State was Officer Patrick Fisher, who testified regarding the execution of a search warrant at a residence on Idaho Street and to finding Gaston in the house in a bedroom attached to the living room. Officer Fisher was the first person to enter the house, and within a second or two of entering the home he encountered Gaston in a side bedroom connected to the living room. There was nothing blocking the view between the bedroom and living room. As far as Officer Fisher was aware, Gaston was the only person in the house when he entered.

¹ All witnesses testifying were employed by the Toledo Police Department.

{¶ 5} Video from Officer Fisher’s body worn camera (“BWC”) was shown to the jury. The video showed officers arriving at a house, yelling “police” and then immediately entering the house. A man, later identified as Gaston, was encountered and he immediately laid on the floor and put his hands on top of his head.

{¶ 6} On cross-examination, Officer Fisher admitted that the warrant was executed as a no-knock warrant.

2. Testimony of Detective Joel Eastman

{¶ 7} Detective Eastman was also on the team executing the search warrant at 1326 Idaho Street and he testified that when he arrived at the house he observed a male, later identified as Robert Parker, exit a white vehicle parked outside the residence and begin to walk toward the house. When Parker viewed the arriving vehicles he returned to the vehicle on the passenger side, placed a book bag in the vehicle, and then went into the side door of the targeted location while the SWAT team was entering through the front door. This vehicle was eventually searched and a book bag containing fentanyl and cocaine was found inside.

{¶ 8} Detective Eastman entered the home and saw Gaston in the living room lying on the floor. During a walk-through of the house, he noticed baggies in the kitchen. He also testified that cocaine was found inside the house.

{¶ 9} Detective Eastman also described previous encounters with 1326 Idaho Street. He stated he conducted surveillance for 30 minutes to an hour between two and four days and during this time he observed the white car parked in front of the address

multiple times as well as heavy foot traffic, which he explained was at least three people during a two to four hour combined period, two of whom entered the house. The surveillance was focused on Gaston and was the result of information gathered from a confidential informant (“CI”). The CI gave the police Gaston’s name, and subsequently the CI took part in a “controlled buy” wherein the CI purchased narcotics from that location under the direction of the police.

3. Testimony of Chadwyck Douglass

{¶ 10} Douglass, a senior criminalist, testified to the following. Item 1, a knotted plastic bag, contained approximately 6.32 grams of a mixed substance containing fentanyl,² exhibit 2 was a scale that contained a residue of cocaine, exhibit 8 was a piece of paper that contained an off-white powder,³ exhibit 11a was 7.41 grams of crack cocaine, exhibit 11b was 1.77 grams of a mixture containing fentanyl, exhibit 11c was .80 grams of a mixture containing fentanyl, exhibit 14 was a silver scale that contained cocaine residue, exhibit 21 was a scale that contained residue which included both cocaine and fentanyl, and exhibit 24 was a scale containing THC residue. These exhibits and his report detailing his findings were admitted into evidence.

² Douglass also testified to other chemicals contained in or on the various exhibits. We have only referenced those relevant to this appeal.

³ Douglass’s report states that the piece of paper contained .14 grams of “off-white chunks and powder” of a substance including fentanyl.

4. Testimony of Detective Claire Billinghamurst

{¶ 11} Detective Billinghamurst also assisted in the execution of the search warrant. She personally searched the living room of the house, and when shown pictures of the living room, she pointed out “drug related material” including a bag of marijuana on a table, a grinder, rolling papers, a scale, a “drug packaging baggy,” a package containing fentanyl, another bag, a lighter, and a “Hide a Can” containing suspected narcotics as well as Gaston’s state identification card which listed his address as 1326 Idaho Street. She also testified to finding a bag containing fentanyl under the coffee table along with the scale and the “Hide a Can” which contained suspected narcotics.

{¶ 12} Detective Billinghamurst further testified that 1326 Idaho Street was approximately 263.3 feet from a nearby school, Glass City Academy.

5. Testimony of Detective Morgan Balboa

{¶ 13} Detective Balboa was the lead detective in the investigation of 1326 Idaho Street. She explained that her investigation began when a CI informed her narcotics were being trafficked at “a light colored house on the corner of Idaho Street and White Street” by someone who went by the name of “Big.” She did some research and found that Gaston lived at that house, which was 1326 Idaho Street. She showed a picture of Gaston to the CI who confirmed that was “Big.”

{¶ 14} Detective Balboa described the controlled buy she conducted with the CI. The CI was searched to make sure he or she didn’t have any money, narcotics, or weapons, then the CI was given money to purchase narcotics. The CI was watched as he

or she entered 1326 Idaho Street and when the CI exited he or she had a bag that appeared to be cocaine that the CI said was from “Big.”

{¶ 15} The execution of the search warrant was also detailed. When Detective Balboa entered the house, the SWAT team had already cleared the house. Gaston was on the floor in “the open room adjoining to the living room” or the living room, although he had been moved from the bedroom. Detective Balboa searched the kitchen and a bedroom. She found a bag in the back bedroom that had, inter alia, a scale in it with residue on it. In the kitchen she found torn baggies in an open trash can, a Pyrex measuring cup, a scale in a drawer, baking soda and gloves. In the front bedroom she found Gaston’s ID. She then explained how the items found in the home were evidence of drug trafficking. She said that digital scales are used to weigh the narcotic and that a “good indication that they are using the scales for narcotic trafficking is if there’s residue found on the scales,” and in this case four scales were found with residue that tested positive for drugs. She further stated that baggies and torn baggies, as were found in a trash bag in the kitchen, are evidence of drug trafficking because drugs are generally found inside sandwich bags, and when drugs are put into the baggies they are tied off and extra part is ripped off and thrown away. Plastic gloves are worn to protect traffickers from the drugs, baking soda and Benadryl are used as fillers, and a Pyrex measuring cup, such as the one found in the kitchen cabinet, can be used to cook drugs.

{¶ 16} Balboa testified that Parker ran into the house when the search warrant was executed, and she explained that Parker was a codefendant who was living in the second bedroom.

{¶ 17} When asked who the initial primary suspect was in her investigation before the search warrant was executed, Detective Balboa responded Gaston. Her belief that Gaston was involved in trafficking did not change when she realized that Parker was also a resident of the house because the narcotics were found in plain view in the living room - a common, shared area - and the CI told her it was Gaston from whom they had purchased the drugs. She explained that it was not standard procedure to test the drugs or other exhibits for fingerprints because they “don’t have very good results from that, especially with the material that drugs are packaged in,” and she stated that she did not ask for DNA testing because “BCI where we send our items, they do not accept drugs for DNA unless it is related to a violent offense.”

{¶ 18} On cross-examination, Detective Balboa acknowledged that the CI was someone in custody that wanted to talk, that she hadn’t previously met this person, and she admitted that she didn’t notice any hand-to-hand transactions between Gaston and the CI, or between Gaston and any other individual that approached the house. She also conceded that finding large amounts of cash is indicative of drug trafficking and yet no cash was recovered from the house nor were any drugs or drug paraphernalia found on Gaston or in what appeared to be his bedroom. There was a scale found in the back bedroom, which was believed to be Parker’s and was near where Parker was detained

during the execution of the search warrant. Detective Balboa further testified the vehicle Parker ran to was searched and a bag containing fentanyl was found.

{¶ 19} On recross-examination, Detective Balboa detailed the layout of the house and explained that the bedroom believed to be Gaston's, as that is where he was found, and where his ID and mail were found, is "very close" to the living room and one heading to that bedroom from the front door would have to pass through the living room. She further clarified that drug dealers are not commonly found with drugs on their person in their own home, and she agreed that two people in the same house can both be involved in drug trafficking. She also stated that the drugs they found were in baggies, and she further specified that the baggy of fentanyl found on the ground was tied in a knot, which she again said indicated drug trafficking to her.

6. Defense

{¶ 20} At the conclusion of Detective Balboa's testimony, the State rested and Gaston moved for acquittal under Crim.R. 29 on the basis that there was no testimony that he was in possession of drugs, no testimony that he "did hand-to-hand or sold," and no testimony that he prepared drugs for shipping. The trial court denied the motion and the defense then rested without calling witnesses.

7. Verdict and Sentencing

{¶ 21} The jury found Gaston guilty on all counts and the matter proceeded to sentencing on July 24, 2025. The trial court found that Counts 1 and 2 were subject to merger as were Counts 3 and 4 and the State elected to proceed on Counts 1 and 3, the

two trafficking convictions. Gaston was sentenced to a minimum mandatory term of four years to an indefinite maximum sentence of six years on Count 1, and a term of 30 months of state incarceration as to Count 3, to be served concurrently to Count 1.

II. Assignments of Error

{¶ 22} Gaston appealed and raised the following assignments of error:

Assignment of Error One: The convictions were not based on sufficient evidence and the trial violated [Gaston]’s right to Due Process pursuant to Article I, Section 16 of the Ohio Constitution and the Fifth and Fourteenth Amendments to the U.S. Constitution; the convictions are also against the manifest weight of the evidence.

Assignment of Error Two: The trial court plainly erred when sentencing [Gaston] to a mandatory prison term.

III. Assignment of Error Number One

{¶ 23} Gaston’s first assigned error contends both that his convictions were not based on sufficient evidence and were against the manifest weight of the evidence. He also maintains that the convictions violated his right to due process.

A. Sufficiency of the Evidence

{¶ 24} The sufficiency of the evidence presents a question of law. *State v. Harvey*, 2022-Ohio-4650, ¶ 52 (6th Dist.), citing *State v. Thompkins*, 78 Ohio St.3d 380 (1997). “The test of sufficiency is one of adequacy, and a conviction lacking evidence as to every element of the offense is a denial of due process.” *State v. Thompson*, 2026-Ohio-1491, ¶ 20 (6th Dist.), citing *Thompkins* at 386-387 and *State v. Messenger*, 2022-Ohio-4562, ¶ 13.

{¶ 25} When reviewing the sufficiency of the evidence, this “court views the evidence in the light most favorable to the prosecution and asks whether “‘any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt.’”” *State v. Brown*, 2025-Ohio-2804, ¶ 16, quoting *State v. Dean*, 2015-Ohio-4347, ¶ 150. “The appropriate standard of review for a sufficiency-of-the-evidence challenge is ‘whether, if believed, the evidence can sustain the verdict as a matter of law.’ When reviewing whether the State met its burden of production, ‘an appellate court does not ask whether the evidence should be believed but, rather, whether the evidence, “if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt.”’” (Citations omitted.) *Id.* at ¶ 17. A verdict should not be disturbed “unless we find that reasonable minds could not reach the conclusion reached by the trier of fact.” *State v. Treesh*, 90 Ohio St.3d 460, 484 (2001), citing *State v. Jenks*, 61 Ohio St.3d 259, 273 (1991).

{¶ 26} Gaston was convicted of trafficking in a fentanyl-related compound, in violation of R.C. 2925.03(A)(2) and (C)(9)(d) and trafficking in cocaine, in violation of R.C. 2925.03(A)(2) and (C)(4)(c). Relevant to both of these convictions, R.C. 2925.03(A)(2) states that no person shall knowingly “[p]repare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.”

{¶ 27} Gaston argues that we should reverse our decision in *State v. Stuart* where we concluded that “[t]he plain language of R.C. 2925.03(A)(2) does not require that an offender be in ‘possession’ of the controlled substance at the time they are arrested for trafficking in order to be convicted.” *State v. Stuart*, 2025-Ohio-2420, ¶ 23 (6th Dist.). Assuming we reverse *Stuart*, Gaston then contends that he didn’t have actual or constructive possession of the drugs and paraphernalia.

{¶ 28} We decline Gaston’s suggestion that we reverse *Stuart*. Following *Stuart*, we find the State was not required to show Gaston was in possession of the controlled substance and Gaston’s arguments that he did not have actual or constructive possession of the drugs and paraphernalia are moot.

{¶ 29} Additionally, Gaston claims that, even if we decline to overturn *Stuart*, his conviction must be reversed as the evidence is insufficient to establish trafficking. He contends that the State failed to prove the “preparation for shipment” portion of the drug trafficking statute, arguing that while there was evidence of baggies, scales with drug residue, and ripped baggies, there was no evidence connecting Gaston to any of the prohibited activities. He cites to *State v. Edwards*, 2009-Ohio-4365 (8th Dist.), *State v. Davis*, 2018-Ohio-376 (7th Dist.), *State v. Jones*, 2017-Ohio-251 (11th Dist.), *State v. Knox*, 2013-Ohio-1993 (8th Dist.), and *State v. Collins*, 2011-Ohio-4808 (8th Dist.) where the courts found that the appellants’ convictions for drug trafficking were either not supported by sufficient evidence or were against the manifest weight of the evidence. The State counters that these cases were distinguishable and that it did not need to

provide direct evidence of trafficking, rather circumstantial evidence is sufficient. We first note that the cases cited by Gaston are not controlling on this court and further, we find them distinguishable from the facts here.

{¶ 30} We are obligated to view the evidence in a light most favorable to the State. When conducting such a review, we find sufficient evidence to establish that Gaston knowingly prepared for shipment, shipped, transported, delivered, prepared for distribution, or distributed a controlled substance when he knew or had reason to believe that the controlled substance or a controlled substance analog is intended for sale or resale. Specifically, in open areas of the house, including in the living room adjacent to his bedroom, lying in the open, were scales containing drug residue, baggies, bags of drugs, and a hide-a-can containing drugs. We have previously found that such items “may constitute circumstantial evidence of conduct proscribed by R.C. 2925.03(A)(2).” *State v. Rutledge*, 2013-Ohio-1482, ¶ 15 (6th Dist.). Additionally, there was testimony that the items found in plain view in the open areas of the house are typically used for drug trafficking, and there was testimony that Gaston had sold to drugs to the CI. With this evidence, we find a rational trier of fact could have found Gaston violated R.C. 2925.03(A)(2).

B. Manifest Weight

{¶ 31} A manifest weight of the evidence challenge looks to whether the State met its burden of persuasion. *State v. Reillo*, 2026-Ohio-2701, ¶ 24.

Weight of the evidence 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. It indicates clearly to the jury that the party having the burden of proof will be entitled to their verdict, if, on weighing the evidence in their minds, they shall find the greater amount of credible evidence sustains the issue which is to be established before them. Weight is not a question of mathematics, but depends on its *effect in inducing belief*.”

(Emphasis in original.) *Id.* at ¶ 25, quoting *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 12, quoting *Thompkins*, 78 Ohio St.3d at 387. “Accordingly, under a manifest-weight review, a court ‘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.’” *Id.* at ¶ 26, quoting *State v. Brown*, 2025-Ohio-2804, ¶ 30. “[A]ppellate courts may ‘vacate a jury’s verdict and order a new trial “only in the exceptional case in which the evidence weighs heavily against the conviction.”’” *Id.* at ¶ 27, quoting *Brown* at ¶ 31.

{¶ 32} “[I]n weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.” *Id.* at ¶ 28, citing *Eastley*, 2012-Ohio-2179 at ¶ 21. “If the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment.” *Id.*, citing *In re. Z.C.*, 2023-Ohio-4703, ¶ 14. An appellate court only disregards that presumption “when evidence contradicts a fact-finder’s findings” or “when a witnesses’ testimony is so

inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable.” *Id.* at ¶ 3. In those instances, the reviewing court sits at a “thirteenth juror who may disagree with the fact-finder’s resolution of the *conflicting evidence*.” (Emphasis in original.) *Id.* at ¶ 27, citing *State v. Martin*, 2022-Ohio-4175, ¶ 26.

{¶ 33} Gaston’s manifest weight arguments are the same as those made for sufficiency of the evidence. For the reasons we discuss above, we do not find this to be an exceptional case where the evidence weighs heavily against the conviction and thus find Gaston’s convictions are not against the manifest weight of the evidence.

{¶ 34} Gaston’s first assignment of error is found not well-taken.

IV. Assignment of Error Number Two

{¶ 35} In his second assignment of error, Gaston objects to the mandatory nature of his sentence, citing R.C. 2925.03(C)(9)(d) for Count 1, and R.C. 2925.03(C)(4)(c) for Count 3, both of which state there is a presumption of prison for these offenses. Gaston also cites to *State v. Nicholson*, 2025-Ohio-5411 (8th Dist.) and *State v. Grays*, 2023-Ohio-2482 (8th Dist.). The State has conceded that this was error, and we agree that the trial court erred in sentencing Gaston to a mandatory sentence.

{¶ 36} Gaston received a mandatory sentence, which was error as both R.C. 2925.03(C)(9)(d) and (C)(4)(c) state that there is a presumption of prison. “With a presumption, the trial court is not required to impose a mandated prison term The trial court retains discretion to sentence the offender as it deems warranted in accordance with the applicable law.” *State v. Schmelzer*, 2024-Ohio-5987, ¶ 50 (3rd Dist.), citing

State v. Cruz, 2012-Ohio-1943, ¶ 10 (8th Dist.). We therefore find Gaston’s second assignment of error well-taken and vacate his sentence.

V. Conclusion

{¶ 37} The judgment of the Lucas County Common Pleas Court is affirmed with respect to Gaston’s convictions, but we vacate his sentence and remand for a new sentencing hearing consistent with this opinion. Pursuant to App.R. 24, the parties are ordered to split the costs incurred on appeal.

Judgment affirmed, in part,
vacated, in part, and remanded.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.

Thomas J. Osowik, P.J.

JUDGE

Gene A. Zmuda, J.

JUDGE

Myron C. Duhart, 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/>.