

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

State of Ohio

Court of Appeals No. {22}E-25-051
{22}E-25-052

Appellee

Trial Court No. 2024 CR 0211

v.

Jennifer Goff

DECISION AND JUDGMENT

Appellant

Decided: October 16, 2026

* * * * *

Kevin J. Baxter, Erie County Prosecuting Attorney, and
Kristin R. Palmer, Assistant Prosecuting Attorney, for appellee.

Miles T. Mull, for appellant.

* * * * *

DUHART, J.

{¶ 1} Appellant, Jennifer Goff, appeals from the judgment of the Erie County Court of Common Pleas convicting her of the offenses of endangering children and obstructing justice. For the reasons that follow, the trial court’s judgment is affirmed.

Statement of the Case

{¶ 2} This case arises from the rape of the minor victim, O.G., from the ages of seven to nine by her step-uncle, Jeremy. After O.G. disclosed the sexual abuse to her father and appellant, her step-mother, at the age of nine, they failed to report the crime to law enforcement or to get O.G. counseling or medical treatment, instead continuing to expose her to her abuser for years. Appellant was indicted by an Erie County Grand Jury

for: (1) one count of endangering children, in violation of R.C. 2919.22(A) and (E)(2)(c); and (2) one count of obstructing justice, in violation of R.C. 2921.32(A)(4) and (C)(4).

{¶ 3} Following a bench trial, the trial court found appellant guilty of: one count of endangering children with an additional finding that the violation resulted in “serious physical harm” to O.G., a third-degree felony; and one count of obstructing justice with an additional finding that the crime aided by appellant was a felony offense, a fifth-degree felony, pursuant to R.C. 2921.32(A)(4) and (C)(3). The trial court sentenced appellant to three years of community control, with a 6-to-12 month prison sentence reserved on the fifth-degree felony offense and a 9-to-36 month prison sentence reserved on the third-degree felony offense, for an aggregate potential prison sentence of up to 48 months “if there would be any serious violations.”

Statement of the Facts

{¶ 4} Growing up, O.G. lived part-time with her mother and part-time with her father and appellant. At the time the rapes occurred, appellant and O.G.’s father lived with appellant’s twin sister, Jessica, and Jessica’s husband, Jeremy. Jeremy pled guilty to rape in connection with the allegations involving O.G. in 2024, and he is currently serving a prison sentence.

{¶ 5} O.G. first told her father about the sexual abuse on March 17, 2014, at the age of nine, after she “freaked out because [she] wanted to sleep” at her grandmother’s house and “didn’t want to go home.” O.G. disclosed to her father that Jeremy “comes in my room at night and he pulls off my clothes and he touches me,” including “touching my vagina.” O.G.’s father then called appellant at work and put O.G. on the phone.

Appellant testified that O.G. told her that Jeremy had been “touching” her. Appellant could not recall if O.G. stated where Jeremy had been touching her, but she had “assumed it was her private areas” and understood it to be serious. Appellant testified that O.G. stated that this had happened “a few times.” However, appellant denied knowing at the time that O.G. had been raped. She nonetheless agreed that touching a child on the vagina was a serious offense and that the perpetrator of such an offense could “[p]ossibly” go to prison. In an interview prior to trial, she stated that this was “terrible” and “one of the worst things” you could do to a child.

{¶ 6} O.G. testified that during their March 17, 2014 phone conversation, appellant told her that Jeremy could go to prison and stated, “[Well], we can tell the police, but he’ll never see his family again or Jessica.” O.G. testified that at the age of nine, this was “very scary” and that appellant’s admonishments caused her not to tell others what Jeremy had done to her. She also testified that, in retrospect, she wished appellant and her father would have “gone to the police so that [she] didn’t have to.”

{¶ 7} Appellant denied ever having told O.G. that she could not go to the police or that if she did, she would never see Jeremy again. She testified that she asked O.G. if she wanted to go to the police, but O.G. did not want to do that. At trial, appellant acknowledged that, although O.G.’s opinion was a factor in deciding what to do, it was ultimately appellant’s decision that law enforcement would not be contacted.

{¶ 8} The morning after O.G.’s March 17, 2014 disclosure, appellant called her sister, Jessica, and told her what O.G. had disclosed. Jessica spoke with Jeremy, who admitted what he had done to O.G. Appellant told Jessica that Jeremy was not allowed

back at the house. Jeremy then temporarily moved into a rental property owned by the mother of appellant and Jessica. He also sent a letter to appellant and O.G.'s father, apologizing and, again, acknowledging what he had done to O.G. A few weeks later, Jessica moved out of the home and into a nearby condo with Jeremy.

{¶ 9} Appellant testified that the family – including herself, O.G.'s father, appellant's mother, and Jessica – went back and forth for a couple of weeks before ultimately deciding not to go to the police. She stated that they were unsure what the right decision was “for the family,” but ultimately decided to handle the matter “in the family.” Appellant testified that she does not always think law enforcement should be involved when a person is raped through digital penetration and she does not always think prison is the answer. However, appellant previously stated that if they had known that O.G. had been raped, it would not have been a family discussion and “it would have been clear” that they would have gone to the police.

{¶ 10} When O.G. first disclosed the sexual abuse to her father and appellant at the age of nine, there were “a lot of words [she] didn't know.” As she got older, “the wording became different[.]” because she “became aware of words like ‘jerking off’ or ‘lube.’” When she was approximately 12 years old, she told appellant that Jeremy used “to put this wet stuff on [her] vagina,” which appellant told her “was probably lube.” O.G. also testified that appellant once asked her whether Jeremy had ever pulled down his pants, and she confirmed that he had. According to O.G., when she reached the age of fourteen or fifteen, she and appellant “fully went into detail about everything that went

on,” including her disclosing that Jeremy had penetrated her vagina with his finger.

Appellant never said that they should call the police.

{¶ 11} Neither O.G.’s mother, Courtney Reyna, nor O.G.’s grandmother, Carmen Reyna, were consulted following O.G.’s disclosure, despite their each having had a good relationship with appellant. In addition, a shared parenting agreement was in place between O.G.’s mother and father that gave O.G.’s mother the right to “[p]articipate in major decisions concerning the child’s health, social situation, morals, [and] welfare[.]” O.G.’s mother testified that appellant had been present at court in 2016, when the agreement was put in place, and that appellant was aware of the agreement’s terms.

{¶ 12} O.G. testified that appellant told her that if she told her mother what Jeremy had done to her, her mother would do something to him and then her mother, too, would end up in prison. When O.G.’s mother would come up in subsequent conversations, appellant would remind O.G. of this. O.G. testified that this repeated warning prevented O.G. from telling her mother, her maternal grandmother, and others about the sexual abuse. Appellant denied ever saying such words to O.G. She claimed, instead, that she and O.G.’s father did not tell O.G.’s mother because “[t]hat’s not what [O.G.] wanted.”

{¶ 13} At the age of nine, O.G. did not have an appreciation of the trauma that she had experienced, nor did she know that she might need professional help. After the sexual abuse, she started having extremely painful periods and chronic yeast infections. O.G. also had a lot of stomach problems and nightmares, she threw up often, and lost a lot of weight. O.G. testified that appellant was aware of these physical issues but never took her to a doctor to have her examined, except once when she was 15 or 16 years old to see

about putting her on birth control. O.G.'s mother took O.G. to a gynecologist when O.G. was 17, at which point she learned O.G. had endometriosis.

{¶ 14} Appellant also never took -- or offered to take -- O.G. to any type of professional counselor or pastor to help her deal with her trauma. To the contrary, O.G. testified that when she told her father and appellant that hearing the doorknob turn at night scared her, they told her, "You're not a victim. Don't be a victim. Don't play the victim." They would also tell her things like "so much worse happens than what happened to you." Hearing these things made O.G. feel like the abuse she had suffered was not a big deal and that she "needed to suck it up." As a result, she continued not to tell others about the sexual abuse.

{¶ 15} Appellant and O.G.'s father continued to expose O.G. to Jeremy after she disclosed his years of sexual abuse. O.G. testified that approximately one month after the disclosure, she, appellant, Jessica, and Jeremy went to dinner together, and that four months after the disclosure, Jeremy attended O.G.'s birthday party. The family also spent Friday evenings together at Jessica and Jeremy's condo. O.G. attended these family dinners every other Friday. Appellant testified that Jeremy "would mostly not be at the dinners" because he worked out of town, but she conceded that "sometimes he would be there." Appellant testified that she had conversations with O.G. about attending these dinners, and that O.G. had confirmed that she was "comfortable being there." Appellant also once asked Jeremy to pick O.G. up from school when she was in the seventh grade, and he drove her home on the back of his motorcycle. O.G.'s first international vacation after the disclosure included Jeremy, and he was included in "every camping trip, every

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holiday, every birthday.” There were multiple long-distance family trips after O.G.’s disclosure that included Jeremy, including trips to Disney World and Africa. Again, appellant testified that they had conversations with O.G. and that O.G. had said “[s]he was comfortable being there.” According to O.G., there were times on these trips where she and Jeremy were alone together without another adult being present. O.G. would have anxiety about seeing Jeremy, but she testified that everyone “lived so much like it was normal that it felt normal.” Appellant acknowledged in her grand jury testimony that having to see the person who sexually abused you would make the resulting trauma even worse.

{¶ 16} As O.G. was entering sixth grade, her father and appellant removed her from public school. She was homeschooled for a year and then sent to a private school from seventh to ninth grade, where she was the only person in her class. Thereafter, she attended school online, but she never returned to in-person public school. O.G. testified that she believed that the reason she was taken out of public school was because sex education was about to be introduced and her father and appellant were afraid that she would tell a teacher what Jeremy had done to her. Appellant denied this, claiming that she and O.G.’s father had discussed homeschooling O.G. “ever since she was in kindergarten” because O.G.’s father was homeschooled. The couple’s other six children, however, remained in public school.

{¶ 17} O.G.’s mother became aware of O.G.’s sexual abuse in or about December 2023. She had a text conversation with appellant in January 2024, during which O.G.’s mother told appellant that “[y]ou can’t withhold information like that from the proper

authorities,” specifying that Jeremy had been “finger fuckin” O.G. Appellant expressed no surprise at this information, instead acknowledging that it was “obviously a BIG deal,” and there was “NO JUSTIFICATION for Jeremy.” Appellant also acknowledged that “Jeremy did something terrible probably the worst thing anyone could do to a person and NONE of us are trying to make excuses for him.” However, appellant insisted that “bringing in law enforcement for justice is NOT always the answer for justice.” When O.G.’s mother noted that appellant and O.G.’s father had continued to invite Jeremy on vacations and family functions with O.G., appellant stated, “We r not gonna carry around unforgiveness and punish my sister for taking the hard road. Is that what u want? For us to write her off for what he did? Punish her for staying with him.” Appellant further added, “Also what kind of person wants to see everyone go to prison??? I’m for consequences for actions...forgiveness...redemption eventually maybe...but sending people to prison? How does that bring justice for such tragedy? I guess we don’t see things the same at all.”

{¶ 18} O.G.’s sexual abuse came to the attention of law enforcement in 2024, when she was 19 years old. She did not come forward sooner because “[i]f the grown people didn’t do it, [she] figured [she] shouldn’t either.” When O.G. finally talked to the police, her little sister was about to turn 7 years old, the same age that O.G. had been when the sexual abuse started. This triggered something in her because her father and appellant had not done anything to protect her three younger female siblings from Jeremy.

{¶ 19} After reporting the abuse to police, O.G. attended counseling from May to November 2024, and was diagnosed with “mild to moderate” post-traumatic stress disorder (“PTSD”). Olmstead testified that PTSD is “defined by severe anxiety, flashbacks, nightmares, hyperarousal, [and] very, very severe anxiety resulting from the event.” In the notes for each session with O.G., including the last session in November 2024, Olmstead responded “Yes” to the question of whether “[m]edical [n]ecessity [was] [p]resent.” Her notes further indicate that during their initial May 2024 session, O.G. reported that she was “lacking motivation, sleeping 6 hours a night, experiencing nightmares, and feeling that she [was] hard on herself and that she struggle[d] with concentrating.” Olmstead further reported during the initial session that O.G. had “panic attacks” and “hypersexuality,” “[d]iminished interest or pleasure in all or almost all activities most of the day, nearly every day,” “[i]nsomnia or hypersomnia every day,” “psychomotor agitation or retardation nearly every day,” “[f]atigue or loss of energy nearly every day,” “[f]eelings of worthlessness or excessive inappropriate guilt nearly every day,” “[d]iminished ability to think or concentrate,” she “lack[ed] motivation,” “experience[ed] nightmares,” “fe[lt] that she [was] hard on herself,” ha[d] “[e]xcessive anxiety and worry...occurring more days than not,” and “struggle[d] with social anxiety, worst case scenario thinking, pre-planning what to say, becoming overwhelmed and overstimulated and frequent[] crying.” The notes also reflect that throughout her various sessions, O.G. reported to Olmstead that she “struggle[ed] with her mood and anxiety,” “bottle[d] her emotions until she explode[d],” “believe[d] her childhood was tainted,” “struggle[ed] with memories and triggers to trauma reaction regarding her abuse,”

“struggl[ed] with reminders of ‘tainted memories’ when going to places like Cedar Point or Disney as she spent time with her abuser at these locations,” “struggle[ed] with processing and managing trauma symptoms,” “struggle[d] with downplaying her trauma,” and “any thought about her life before age 16 cause[d] her to go into a state of hyperarousal.” O.G. testified that although Olmstead had discussed medication to help treat these symptoms, she was never put on any because O.G. was “wary of medication.”

{¶ 20} O.G. testified that she had not gone to counseling recently “[b]ecause when [she had] to go there and tell [her counselor] everything, [she] ha[d] to take a whole day to [herself] to just cry.... [She] ha[d] to take a mental day afterwards because [she was] reliving [the abuse].” Megan Olmstead, her counselor, testified that although O.G. never quit counseling, Olmstead had to close O.G.’s case in May 2025 after a number of missed sessions. Olmstead testified that it was her belief that O.G. “could have benefited from further services.”

Assignment of Error

{¶ 21} On appeal, Goffs asserts the following assignments of error:

- I. The trial court erred when it found appellant guilty of endangering children, in violation of R.C. 2919.22(A); such finding was not supported by evidence that proved guilty beyond a reasonable doubt.
- II. The trial court erred when it found that the violation of endangering children caused serious harm to the minor child, pursuant to R.C. § 2919.22(E)(2)(c); such a finding was not supported by evidence that proved guilt beyond a reasonable doubt.
- III. The trial court erred when it found appellant guilty of obstructing justice, a fifth-degree felony, in violation of R.C.

§§ 2921.32(A), 2919.32(C)(4) [sic]; such a finding was not supported by evidence that proved guilt beyond a reasonable doubt.

Law and Analysis

{¶ 22} In her brief, appellant argues alternately, if not consistently, that her convictions were based on insufficient evidence and were against the manifest weight of the evidence. 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).

{¶ 23} A manifest weight of the evidence challenge, on the other hand, 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 *State v. Thompkins*, 78 Ohio St.3d 380, 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.

{¶ 24} “[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* 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.

First and Second Assignments of Error

{¶ 25} In her first and second assignments of error, appellant challenges her conviction for endangering children under R.C. 2919.22. Because these two assignments of error involve overlapping issues, they will be considered together in this analysis.

{¶ 26} R.C. 2919.22 provides in relevant part:

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

(E)(1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following[:]

...

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

R.C. 2919.22(A), (E)(2)(c).

{¶ 27} A “[s]ubstantial risk” means “a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that circumstances may exist.” R.C. 2901.01(A)(8).

{¶ 28} R.C. 2901.01(A)(5)(a) defines “serious physical harm to persons” as including “[a]ny mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment.”

{¶ 29} Although not specified in the statute, “[a]n essential element of the crime of endangering children under R.C. 2919.22(A) is the existence of the culpable mental state of recklessness. *State v. Washington*, 2014-Ohio-1008, ¶ 44 (6th Dist.), citing *State v. McGee*, 79 Ohio St.3d 193, 195 (1997), syllabus. R.C. 2901.22, which defines recklessness, provides:

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

{¶ 30} R.C. 2919.22 “is aimed at preventing acts of omission or neglect when the breach results in a substantial risk to the health or safety of a child.” *State v. Stewart*, 2007-Ohio-6177, ¶ 59, citing *State v. Sammons*, 58 Ohio St.2d 460 (1979) and *State v. Kamel*, 12 Ohio St.3d 306, 308 (1984). “[A]n inexcusable failure to act in discharge of one’s duty to protect a child where such failure to act results in a substantial risk to the child’s health or safety is an offense under R.C. 2919.22(A). *Kamel* at 309.

{¶ 31} Appellant first disputes that she “created a substantial risk to the health or safety of [O.G.] through a violation of a duty of care, protection, or support.” She focuses her argument exclusively on the testimony of Megan Olmstead, O.G.’s counselor, arguing that Olmstead testified only that O.G. had been diagnosed with PTSD and that

this could “occur from multiple traumatic events.” Appellant contends that “the only thing proven beyond a reasonable doubt is that O.G. suffered a trauma from being sexually abused by her uncle” and there was no testimony that “any other diagnosed source existed, only reports of additional concerns regarding the abusive relationship of O.G.’s mother.” Thus, appellant concludes, “the evidence was not sufficient to make a finding, by proof beyond a reasonable doubt, that [she] created a substantial risk to the health or safety of O.G. through a violation of a duty of care, protection, or support.”

{¶ 32} Arguing to the contrary, the State argues that the totality of the evidence -- including testimony by O.G. and by appellant herself -- clearly demonstrates that appellant created a substantial risk to the health or safety of O.G. by breaching her duty of care, protection or support in: (1) failing to report the sexual abuse of O.G. to law enforcement and to O.G.’s mother; (2) continuing to expose O.G. to her sexual abuser; and (3) failing to seek medical or psychological care for O.G. following her disclosure of the abuse. We agree.

{¶ 33} O.G. testified that following her disclosure of the sexual abuse in March 2014, appellant told her, in several different ways and on multiple occasions, that the consequences of her telling police or her would result in harm to other members of O.G.’s family, including her aunt Jessica and her mother. O.G. further testified that even after she disclosed to appellant at the age of 14 or 15 that Jeremy had penetrated her vagina with his finger, appellant never said that they should call the police. This, despite appellant’s claim in an interview before trial that if the family had known O.G. had been

raped, as opposed to merely touched, “it would have been clear” that they would have gone to police.

{¶ 34} Not only did appellant fail to notify law enforcement of the sexual abuse, she (along with O.G.’s father) continued to expose O.G. to the self-admitted perpetrator, at dinners, parties, and vacations, normalizing the situation and making O.G. believe that what had happened was not a big deal.

{¶ 35} Following the disclosure, when O.G. began to experience physical and psychological symptoms, such as painful periods, chronic yeast infections, stomach issues, and nightmares, appellant failed to take O.G. to a doctor or therapist to have her examined to determine whether she had suffered any injuries as a result of the sexual abuse.

{¶ 36} Appellant’s inaction when it came to reporting her brother-in-law’s crimes and disclosing them to O.G.’s mother, continuing to expose O.G. to her abuser for years, and failing to seek treatment for O.G. is sufficient to establish a “strong possibility” of long-term physical and/or psychological harm.

{¶ 37} Appellant next contends that the State failed to prove that she acted recklessly. She first argues that the indictment was defective because it did not include the mens rea of recklessness. Appellant did not object to the alleged defect in the indictment before the trial court and, therefore, waived all but plain error. *See State v. Hamilton*, 2022-Ohio-967, ¶ 33 (citation omitted). “Crim.R. 52(B) provides that ‘[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.’” *Id.*, quoting Crim.R. 52(B). However, “[p]lain

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error does not exist unless ‘but for the error, the outcome of the trial clearly would have been otherwise.’” *State v. Davis*, 2008-Ohio-4537, ¶ 11, quoting *State v. Long*, 53 Ohio St.2d 91, 97 (1978).

{¶ 38} Count 1 of the indictment charged appellant with endangering children, in violation of R.C. 2919.22(A) and (E)(2)(c). R.C. 2919.22 does not identify a specific mens rea for the offense of endangering children but does include as an essential element of the offense the culpable mental state of recklessness. *See Washington*, 2014-Ohio-1008 (6th Dist.) at ¶ 44 (holding that an essential element of the crime of endangering children under R.C. 2919.22(A) is the existence of the culpable state of recklessness). “[T]he Ohio Supreme Court has recognized that ‘[a]n indictment that charges an offense by tracking the language of the criminal statute is not defective for failure to identify a culpable mental state when the statute itself fails to specify a mental state.’” *Id.*, quoting *State v. Horner*, 2010-Ohio-3830, paragraph one of the syllabus.

{¶ 39} In the current case, Count 1 of the indictment alleges that appellant, was “a parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age, who did create a substantial risk to the health or safety of O.G. (juvenile), by violating a duty of care protection, or support,” and that this violation “resulted in serious physical harm to O.G.” We find that the language of the indictment tracks the language of the criminal statute in that it alleges that appellant created a substantial risk to the health and safety of a child, and that the violation resulted in serious physical harm to the child. We therefore hold that the indictment is not defective for failing to include the culpable mental state of recklessness, because it tracks

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the language of R.C. 2919.22(A) and (E)(2)(c), which statute does not specify a culpable mental state.

{¶ 40} Next, appellant contends that even if the indictment is not defective, there was “an insufficiency to any evidence that Defendant acted recklessly.” According to appellant, the evidence showed nothing more than a “negligent state of mind.”

{¶ 41} “A person acts recklessly when they consciously ignore a known and significant risk that their actions will cause a specific result, showing no concern for the consequences.” *State v. Totty*, 2026-Ohio-2140, ¶ 24 (3d Dist.). “In contrast to the actor who proceeds with knowledge of a risk, the failure of a person to perceive or avoid a risk that his conduct may cause a certain result or may be of a certain nature is negligence.” *State v. Peck*, 2007-Ohio-2730, ¶ 13 (10th Dist.), citing R.C. 2901.22(D). “Ultimately, the distinction between recklessness and negligence is normally one of kind, rather than degree: the reckless actor is aware of the risk and disregards it, whereas the negligent actor is unaware of the risk but should have been aware of it.” *Totty* at ¶ 25, citing *Peck* at ¶ 13.

{¶ 42} Here, there was abundant evidence that appellant’s conduct in the present case was reckless, rather than merely negligent. Knowing that a victim having to see her abuser could make the victim’s trauma even worse, appellant continued to expose O.G. to Jeremy at family gatherings and trips. According to O.G. and O.G.’s mother’s testimony, there were times at these gatherings and trips during which O.G. was left alone with her abuser. In addition, O.G. testified that appellant and O.G.’s father’s continuing to expose her to Jeremy over the years normalized the situation and made her “believe that [what

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had happened] was not a big deal.” In a police interview prior to trial, appellant herself acknowledged that she normalized what Jeremy had done to O.G. by continuing to expose her to her abuser. In this case, a fact finder could reasonably conclude that appellant -- perhaps in an effort to preserve her relationship with her sister -- recklessly disregarded the known risk that exposing O.G. to Jeremy could worsen O.G.’s trauma.

{¶ 43} In addition, O.G. testified to experiencing numerous physical issues after the sexual abuse for which appellant, although aware of the issues, never took O.G. to a doctor to have her examined to determine whether she had suffered any physical injuries from the sexual abuse.

{¶ 44} That appellant was aware of all of these risks and recklessly disregarded them is further evidenced by her efforts to ensure that the sexual abuse of O.G. stayed within their family. Appellant never took O.G. to any type of counselor or pastor to help her deal with the trauma of having been repeatedly molested by Jeremy. In fact, according to O.G.’s testimony, neither appellant nor O.G.’s father ever even offered her counseling.

{¶ 45} O.G. testified that when she first disclosed the sexual abuse, appellant told her that they could tell the police, but if they did, Jeremy would go to prison and his family would never see him again. O.G. testified that at the age of nine, this was “very scary” and that was why she “didn’t want to come out and say anything in the first place.” O.G. further testified that appellant told her that if she told her mother what had happened to her, her mother would do something to Jeremy and then her mother, too, would end up in prison. When O.G.’s mother came up in conversations, appellant would

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remind O.G. of this. Although appellant denied saying these things to O.G., she admittedly never disclosed the sexual abuse to O.G.’s mother or maternal grandmother, despite being close with both of them. O.G. testified that because of the things that appellant told her, she did not tell others of the sexual abuse, including her mother, maternal grandmother, and law enforcement. Although, over the years, O.G. did tell some friends and other children of the abuse, she testified that she would beg those individuals not to tell any adults.

{¶ 46} When O.G. was twelve, O.G.’s father and appellant withdrew her permanently from public school. O.G. testified that she believed that the reason that she was removed from public school was because sex education would soon be part of the curriculum and her father and appellant were afraid that she would tell a teacher what Jeremy had done to her. Appellant denied that this was the reason they had removed O.G. from public school and claimed that it was something that she and O.G.’s father had discussed “ever since she was in kindergarten” because he had been homeschooled. However, none of the couple’s other six children were ever removed from public school.

{¶ 47} All of the foregoing demonstrates that there was ample evidence in the record demonstrating that appellant not just negligently but recklessly created a substantial risk of harm to the health and safety of O.G.

{¶ 48} Appellant argues that a finding of recklessness conflicts with the following statement made by the trial court after the trial court expressly acknowledged the applicability and definition of the term:

...I believe, Jennifer, that you truly love [O.G.], and you did what you thought was right at the time, but I think there obviously had to be some subconscious – I don’t even think you deliberately did this or whatever, but maybe subconsciously – I would like you to ask yourself, like if it had been any other person except Jeremy that had done this, would you have handled it differently.

{¶ 49} Well-settled law provides:

A court speaks exclusively through its journal, not through oral pronouncement. *Schenley v. Kauth* (1953), 160 Ohio St. 109, paragraph one of the syllabus; *State v. Hampton*, 2011-Ohio-3486, ¶ 13 (10th Dist.). Consequently, a court's oral statements have no legal force and effect unless and until the court incorporates them into a journalized entry. *In re Guardianship of Hollins*, 2007-Ohio-4555, ¶ 30; *Johnson v. Johnson*, 2011-Ohio-3001, ¶ 16 (3d Dist.). Standing alone, “[a] commentary from the bench, leading up to pronouncement of a decision, is...[not] adequate to provide a disappointed party a solid basis on which to ground an appeal.” *State ex rel. Papp v. James*, 69 Ohio St.3d 373, 377 (1994), quoting *In re Adoption of Gibson*, 23 Ohio St.3d 170, 173, fn. 3 (1986)

Romano’s Carryout, Inc. v. P.F. Chang’s China Bistro, Inc., 2011-Ohio-4763, ¶ 22 (10th Dist.). Because the trial court did not incorporate its oral commentary into the written judgment entry, that commentary has no bearing on our review of the trial court’s judgment.

{¶ 50} In her second assignment of error, appellant contends that the trial court erred when it found her guilty of a third-degree felony by finding that O.G. suffered from “serious physical harm,” pursuant to R.C. 2919.22(E)(2). Endangering children pursuant to R.C. 2919.22(A) enhances from a misdemeanor to a third-degree felony “[if] the violation...results in serious physical harm to the child involved.” R.C. 2919(E)(2)(c). And “serious physical harm to persons” includes “[a]ny mental illness or condition of

such gravity as would normally require hospitalization or prolonged psychiatric treatment.”

{¶ 51} Megan Olmstead, a behavioral health counselor, provided counseling services to O.G. from May to November 2024. She diagnosed O.G. with PTSD. The defense did not object to this diagnosis or present any contrary expert testimony. Appellant still does not dispute the diagnosis.

{¶ 52} Instead, appellant focuses on the severity of O.G.’s PTSD, arguing that it does not rise to the level of “serious physical harm.” She contends that the statutory language demonstrates that “‘prolonged psychiatric treatment’ in this context is not the same as requiring counseling services for a period of time to help process and deal with issues; instead, the inclusion of ‘hospitalization’ implicitly means that ‘prolonged psychiatric treatment’ is to mean a level of outpatient psychiatric treatment that is near or on par with that of ‘hospitalization’ itself.” Notably, appellant provides no citation or other support for her claim.

{¶ 53} Ohio courts have generally found that evidence that a victim was diagnosed with a mental illness or condition and received ongoing treatment is sufficient to establish the element of serious physical harm. *See, e.g., State v. Palmer*, 2022-Ohio-2955, ¶ 17 (8th Dist.) (finding sufficient evidence of “serious physical harm” where evidence showed the victim saw “counselors once a week because she was depressed, not sleeping, and engaging in self-harm activities,” and witnesses testified that the victim “should continue with psychiatric counseling as a result of her mental health diagnosis”); *State v. D.S.*, 2021-Ohio-1725, ¶ 72 (8th Dist.) (finding sufficient evidence that victims of rape

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and felonious assault involving sexual abuse suffered “serious physical harm” where “all three victims were diagnosed with PTSD and required ongoing psychiatric treatment as a result of [the defendant’s] abusive conduct”); *State v. Setty*, 2014-Ohio-2340, ¶ 95 (12th Dist.) (finding sufficient evidence that sexual abuse caused “serious physical harm” to minor children who were “not hospitalized,” where they “suffer[ed] from the mental condition PTSD” and had “undergone psychotherapy...for more than ten months to treat their PTSD”).

{¶ 54} Although appellant emphasizes that O.G. was diagnosed with “mild to moderate” PTSD, she ignores Olmstead’s testimony that PTSD, of any severity, is “defined by severe anxiety, flashbacks, nightmares, hyperarousal, [and] very, very severe anxiety resulting from the event.” Appellant also ignores Olmstead’s notes listing O.G.’s multiple physical and psychological symptoms together with repeated notations that “[m]edical [n]ecessity [was] present.” With this evidence, we find a rational trier of fact could have found that O.G. suffered from “serious physical harm.”

{¶ 55} Appellant’s manifest weight arguments appear to be the same as those made for sufficiency of the evidence. For the reasons we discuss above, we do not find this to be the exceptional case where the evidence weighs heavily against the conviction and thus find appellant’s conviction for endangering children, a felony of the third degree as defined by R.C. 2919.22(A) and (E)(2)(c), is not against the manifest weight of the evidence. Accordingly, appellant’s first and second assignments of error are found not well-taken.

Third Assignment of Error

{¶ 56} In her third and final assignment of error, appellant contends that the trial court erred by finding her guilty of obstructing justice. She again relies on the trial court's statement on the record that "I don't even think that you deliberately did this...." Again, because the trial court did not incorporate its oral commentary into the written judgment entry, this commentary had no bearing on our review of the trial court's judgment. *See Romano's Carryout, Inc.*, 2011-Ohio-4763, at ¶ 22 (10th Dist.).

{¶ 57} R.C. 2921.31(A) and (C)(4) define the offense of obstructing justice as follows:

(A) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime or to assist another to benefit from the commission of a crime, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a crime or to assist a child to benefit from the commission of an act that if committed by an adult would be a crime, shall do any of the following:

...

(4) Destroy or conceal physical evidence of the crime or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;

{¶ 58} Here, abundant evidence demonstrates that appellant repeatedly induced O.G. to withhold testimony and information from law enforcement, her family, and other adults, and she did so with the purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of Jeremy. O.G. testified that immediately after her initial disclosure, appellant told her that Jeremy could go to prison and that, "we can

tell the police, but [Jeremy will] never see his family again or Jessica.” O.G. testified that this was “very scary” to her at the age of nine, and that the things appellant told her caused her not to tell others what Jeremy had done to her.

{¶ 59} O.G. further testified that appellant told her that if she told her mother what Jeremy had done to her, her mother would do something to Jeremy and her mother, too, would end up in prison. When O.G.’s mother would come up in conversations, appellant would remind O.G. of this warning, preventing O.G. from telling her mother, maternal grandmother, and others about what had happened to her.

{¶ 60} O.G. also testified that her father and appellant made light of her fears about hearing her doorknob turn at night by telling her not to play the victim, and that there were much worse things that could happen to a person. Hearing these things made O.G. feel like the abuse she had suffered was not a big deal and that she “needed to suck it up.” As a result, she continued not to tell others about the sexual abuse.

{¶ 61} Appellant and O.G.’s father went so far as to remove O.G. from public school before she entered the sixth grade. O.G. testified that she believed the reason she was taken out of public school was to prevent her from receiving sex education and telling a teacher what Jeremy had done to her. All of the couple’s other children remained in public school

{¶ 62} The foregoing demonstrates ample evidence that appellant worked with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of Jeremy for his crimes. Thus, the trial court did not err by finding appellant guilty of obstructing justice. Once again, appellant’s manifest weight arguments are the same as

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those made for sufficiency of the evidence. We do not find this to be an exceptional case where the evidence weighs heavily against the conviction and, thus, find appellant's convictions are not against the manifest weight of the evidence. Accordingly, appellant's third assignment of error is found not well-taken.

Conclusion

{¶ 63} The judgment of the Erie County Court of Common Pleas is affirmed.

Appellant is ordered to pay the costs of appeal pursuant to App.R. 24.

Judgment affirmed.

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

Christine E. Mayle, J.

JUDGE

Myron C. Duhart, 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:
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