

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

MICKELE JAMAR GLENN,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY

Case No. 26 MA 0019

Criminal Appeal from the
Court of Common Pleas of Mahoning County, Ohio
Case No. 2025 CR 00197

BEFORE:

Cheryl L. Waite, Carol Ann Robb, Katelyn Dickey, Judges.

JUDGMENT:

Affirmed.

Atty. Lynn Maro, Mahoning County Prosecutor, *Atty. John B. Juhasz*, Assistant Prosecutor and Criminal Division Chief, and *Atty. Brian P. Kish*, Assistant Prosecuting Attorney, for Plaintiff-Appellee and

Atty. John P. Laczko, John P. Laczko, LLC, for Defendant-Appellant.

Dated: October 22, 2026

WAITE, P.J.

{¶1} Appellant Mickle Jamar Glenn appeals a February 3, 2026 judgment entry of the Mahoning County Court of Common Pleas convicting him on one count of murder and one count of aggravated burglary, along with two firearm specifications. Appellant raises four assignments of error. First, he argues that the state failed to try him within the strictures of Ohio speedy trial law. Second, he urges the court improperly admitted evidence of text messages extracted through the CellBrite program. Third, he contends his convictions are against the manifest weight of the evidence. Fourth, and last, Appellant invokes the cumulative error doctrine. For the reasons provided, Appellant’s arguments are without merit and the judgment of the trial court is affirmed.

Factual and Procedural History

{¶2} At the time of the incident, Appellant was dating a woman named “P.J.” P.J. had been friendly with the victim, “E.L.”, since 2016. While the victim wanted his relationship with P.J. to be romantic, they remained in a platonic relationship and each considered the other as a best friend. However, Appellant became jealous of the victim and was unhappy with the close friendship between the victim and P.J.

{¶3} Shortly before the victim was killed he visited P.J. and played with her young child. This angered Appellant and caused him to have some sort of outburst. P.J. confronted Appellant and informed him that she refused to give up her best friend and that he had to find a way to co-exist with the victim. She later brought Appellant to the victim’s house and had a conversation with both, telling them that they had to get along, as she intended that both would remain in her life.

{¶4} On October 31, 2023, Appellant was driving in his car with P.J. and her child. At some point, Appellant and P.J., who was intoxicated, got into an argument. P.J. became angry and instructed Appellant to take her to the victim's home on Oneta Ave in Youngstown. When they arrived, the victim was sitting outside. Appellant exited the car while P.J. remained in the vehicle with her child. Appellant approached the victim and asked to use his restroom. Within moments after the two men entered the house, P.J. heard approximately seven gunshots. Her description was that the noise sounded like fireworks. P.J. then left the vehicle and started to walk into the house when Appellant exited and led her away. She told Appellant that she knew what he had done, but he claimed to have done nothing.

{¶5} Several days later, a neighbor noticed that the victim's garage door had been left open for a few days. The neighbor testified that it was unusual for the victim's garage door to be open overnight, and especially unusual that it remained open for multiple days. This neighbor went to the victim's house to check on him, entering through the door leading from the garage into the house. Not far from the entrance, he discovered the victim's body lying in a pool of blood.

{¶6} P.J. did not call the police initially. When she later became fearful, she sent an email to Detective Greg Anderson of the Youngstown Police Department requesting to meet. Appellant discovered this email, took a screen shot, and emailed it to several of his family members and friends, complaining about P.J.'s action. In the meantime, P.J. did meet with Det. Anderson and told him what she knew about the crime. Through the use of certain technology, Det. Anderson was able to place Appellant's phone at the victim's house the time of the shooting, corroborating P.J.'s statement.

{¶7} Det. Anderson was also able to obtain Appellant’s cell phone records. These included cell phone tower “pings” that also placed Appellant near the victim’s house around the time of the murder. (Trial Tr., p. 395.) They revealed Appellant’s cellphone was within .0024 miles of the victim’s house at the time of the murder. (Trial Tr., p. 396.)

{¶8} On April 10, 2025, a secret indictment was filed charging Appellant with two counts of murder, unclassified felonies in violation of R.C. 2903.02(A), and one count of aggravated burglary, a felony of the first degree in violation of R.C. 2911.11(A)(1)(B). Both offenses carried attenuated firearm specifications.

{¶9} Following a trial, the jury found Appellant guilty of all counts as charged. On February 3, 2026, the trial court imposed the following sentence: fifteen years to life in prison for murder (counts one, two, and three merged for purposes of sentencing) with three years for the attenuated firearm specification and eleven to sixteen and one-half years for aggravated burglary with an additional three years for the second firearm specification. The court ordered the sentences to run consecutively and gave Appellant credit for 553 days served.

ASSIGNMENT OF ERROR NO. 1

THE TRIAL COURT VIOLATED APPELLANT’S SPEEDY TRIAL RIGHTS
WHEN IT CONDUCTED A JURY TRIAL ON DECEMBER 2, 2025 WHICH
WAS BEYOND THE STATUTORY LIMITS OF SPEEDY TRIAL.

{¶10} Appellant argues that the state failed to try him within the parameters of Ohio’s speedy trial law. The state’s main witness, P.J., disappeared for a period of time

and the state was required to request several continuances while it undertook to locate her. Although he concedes that Ohio law generally tolls the speedy trial clock where the state has difficulty locating a missing material witness, Appellant claims that his case is unique, because he asserts the state knew the witness would be difficult to locate when it filed the charges. Appellant claims that, although his counsel acquiesced to the continuances and cooperated in choosing new trial dates, those actions should not be counted against him because he did not seek the continuances.

{¶11} The state responds that it made several good faith attempts to locate the witness, and filed a motion to dismiss when it believed the witness could not be located by the time of trial. The state contends that the reason the witness was difficult to locate was because Appellant sent photos of the witness' email asking to meet with Det. Anderson along with complaints about P.J. to his friends and family. She interpreted this as a threat and feared for her safety should she testify.

{¶12} Ohio recognizes both a constitutional and a statutory right to a speedy trial. *State v. King*, 70 Ohio St.3d 158, 161 (1994). The Sixth Amendment to the United States Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

{¶13} In addition, Ohio has enacted a statutory speedy trial right. R.C. 2945.73(B) provides: “Upon motion made at or prior to the commencement of trial, a person charged with an offense shall be discharged if he is not brought to trial within the time required by sections 2945.71 and 2945.72 of the Revised Code.” “A person against whom a charge of felony is pending: . . . (2) Shall be brought to trial within two hundred seventy days after the person's arrest.” R.C. 2945.71(C)(2). “For purposes of computing time . . . each day during which the accused is held in jail in lieu of bail on the pending charge shall be counted as three days.” R.C. 2945.71(E).

{¶14} A review of a trial court's decision regarding a defendant's motion to dismiss premised on a violation of the speedy trial provisions involves a mixed question of law and fact. *State v. High*, 143 Ohio App.3d 232 (7th Dist. 2001), citing *State v. McDonald*, 1999 WL 476253 (7th Dist. June 30, 1999). The trial court's findings of fact are given deference if supported by competent, credible evidence. *Id.* However, a reviewing court must independently review whether the trial court properly applied the law to the facts of the case. *Id.* Further, an appellate court must strictly construe the relevant statutes against the state. *Id.*, citing *Brecksville v. Cook*, 75 Ohio St.3d 53, 57 (1996).

{¶15} Factors to consider in determining whether a delay is reasonable include: “[l]ength of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant.” *Barker v. Wingo*, 407 U.S. 514, 530 (1972).

{¶16} As both sides agree, here, the speedy trial clock began to run on April 12, 2025, the day after Appellant was arrested and held without bail. The clock continued to run until April 16th when the first discovery motion was filed, stopping the time at three days. The clock resumed when discovery ended on May 17, 2025. Thereafter, Appellant

signed a waiver of speedy trial from May 29, 2025 to September 2, 2025. Trial was set for September 3rd. At the time Appellant's waiver began, eleven days were added to the clock, bringing the total time to fourteen days.

{¶17} The state had filed for a continuance prior to the September 3, 2025 trial date, seeking to continue trial to September 22, 2025. The state based its request on the fact that it could not locate P.J., who had disappeared because she was afraid of Appellant. The court granted the state's motion. On September 19, 2025, the state filed an affidavit seeking a material witness warrant pertaining to P.J.

{¶18} The state subsequently filed another motion for a continuance due to P.J.'s unavailability. That motion was also granted and trial was continued to October 20, 2025. However, on October 17, 2025, Appellant filed a motion to dismiss based on speedy trial grounds. In this motion, Appellant appears to understand that at that point, the state had until November 17, 2025 to timely bring Appellant to trial. However, in his motion Appellant claimed that there was some sort of verbal promise by the state that trial would not be further delayed, and it was this, not the actual expiration of his speedy trial time, that caused Appellant to seek dismissal.

{¶19} As Appellant's motion to dismiss attacked the state's request for continuance, one factor to consider is the length of delay. At the hearing on Appellant's motion to dismiss, defense counsel informed the court that he was unavailable on the requested rescheduled date due to counsel's representation in a different trial. Appellant stated in his motion: "It would be unfair to continue [Appellant's] trial because Attorney Meikle is in another jury trial when the state cannot move forward with their case." (10/17/25 Motion to Dismiss.) Understanding, however, that the motion to dismiss would

likely be denied as the speedy trial time had not yet run, Appellant admitted that “[w]hile this continuance could have been avoided and the State should honor their verbal promise to the defense; at this point, we are left without any other option but to agree to the continuance of the jury trial.” (10/17/2025 Motion to Dismiss.) Hence, Appellant argued that although he ultimately agreed to the continuance, it was not reasonable because he was somehow forced to agree to the postponed date.

{¶20} The court’s judgment entry filed after hearing provided: “[b]y agreement of the parties, this matter is set for trial on November 17, 2025 at 8:30 a.m.” (10/20/25 J.E.) Three days before this scheduled trial date, the state filed a motion for leave to dismiss the case based on its continued inability to locate P.J. Neither the court nor defense counsel responded to the state’s motion. However, on the scheduled day of trial, the state’s witness, P.J., appeared in court and was taken into custody pursuant to the material witness warrant.

{¶21} The court held a hearing to address whether to commence with trial that day, as scheduled. Because the parties were all surprised that the witness actually appeared for trial and because of the state’s motion to dismiss, the state explained that the lead detective in this matter was out of town and the prosecutor had scheduled a medical appointment that week which could not be rescheduled. The state suggested that trial be rescheduled to December 1, 2025. However, Appellant’s counsel had a trial scheduled on that day and agreed that Appellant’s trial could not begin until December 2, 2025. The trial in this matter did commence on December 2, 2025.

{¶22} On appeal, Appellant does not take issue with any tolling during the discovery period or his speedy trial waiver. His argument is centered on the period of

time from September 3, 2025 to December 2, 2025. During this time, the delay was due to the state's difficulty in locating P.J., a material witness, and Appellant's counsel's representation of other clients which caused conflicts in setting dates for Appellant's trial.

{¶23} Regarding Appellant's speedy trial concerns, these were discussed at the November 17th hearing. The prosecutor explained:

Your Honor, we were scheduled for trial this morning; however, on Friday, the State filed motion for leave to dismiss based on the unavailability of locating a witness. Much to everyone's surprise, the witness did appear this morning of her own volition and was taken into custody on a material witness warrant.

So as far as moving forward, Your Honor, I know we have had several discussions in regards to speedy trial time, which was originally calculated to be November 14th, without any tolling events. However, the issuance of the material witness warrant, which pursuant to 2945.72 would toll time, provided the State was diligent in its efforts to locate the witnesses, which I would present to the Court the State has made significant efforts to locate [P.J.], including its own investigators traveling to her residence, former places of employment, last known addresses, in addition to enlisting the U.S. Marshals to attempt to locate [P.J.], although they were not able to do so.

Time would be tolled in that regard as well as from prior motions, putting the new speedy trial date to December 4th. If the Court were to

determine that the State was not diligent and did not include the material witness warrant time, speedy trial would be November 30th, which is a Sunday, moving it to Monday, December 1st.

The State would ask to continue this until December 2nd, after consulting with defense counsel, based on their trial schedule in another court, for the reasons that the detective is currently out of state in training and would be some difficulty in getting him here to testify in person for trial this week.

Additionally, Your Honor, I have a medical appointment that was scheduled for Thursday that would slow down the Court's docket if I was unable to reschedule on that date, and we are butting up into a holiday week.

(Hrg. Tr., p. 2-4.)

{¶24} Defense counsel countered by requesting that the jury be brought in and the trial commenced immediately:

At this point, he's ready to go. He has, since day one, been saying he's not guilty of this. I explained to him the unknowns associated with having a detective potentially testify via Zoom. I believe that he's okay with those unknowns. I believe that he's willing to -- I believe he understands that the detective would be by Zoom. He does recognize that obviously in person is

way better, but at this point he's tired of sitting in jail and he's -- I mean, I think he's ready to -- we're ready to move forward.

(Hrg. Tr., p. 4-5.)

{¶25} Following hearing, the court acknowledged the importance of the material witness to the state and observed that the trial would certainly be able to occur due to P.J.'s appearance and detention that morning. The court also indicated that while it preferred to move forward that day, there were valid reasons to grant a further continuance:

I can finally say that with some degree of certainty in that we have the witness who, I believe, was characterized by the State as material, as crucial. I will not let her go until this is done. So that much I can promise. With regard to the scheduling, I would like to go tomorrow as well, I'm fine with that. But I know that there are things that I have to consider. And the detective testifying via Zoom is not optimal, and it's not optimal for either side. But it could be done and I'm prepared to do that. I don't want to take any medical time away from anyone in this case, that weighs on me. So as it stands, I would be okay with continuing the matter to the 1st, unless you wanted to start on the 2nd.

(Hrg. Tr., p. 5.)

{¶26} Defense counsel did not further object, but cooperated in setting a new trial date: "Your Honor, I would be asking, if we do continue to the 1st, to start on the 2nd. I don't want there to be any unforeseeable issues. I am set for a jury trial that was previously

scheduled. And I know the Rules of Superintendence, so that instead of setting on the 1st, I would want to start on Tuesday, the 2nd.” (Hrg. Tr., p. 5.)

{¶27} Again, Appellant concedes that in Ohio, the law generally allows the state to toll the speedy trial clock for a reasonable period of time to locate a material witness. Appellant’s argument is that his is a unique case, where the state was aware in advance that the witness would be difficult to locate. Hence, he contends that the time it took for the state to locate P.J. should be determined to be unreasonable. However, Appellant fails to address in his argument the fact that the difficulty in procuring the witness in this case was of his own making. His actions caused her to fear for her life. The state’s difficulty in locating this witness was because she feared Appellant may harm her if she testified against him.

{¶28} Appellant contends that “[w]hile it is true that Appellant’s counsel acquiesced to the trial court orders and provides input about requested trial dates for the sake of scheduling, it was clearly inappropriate to attribute any of the continuances requested above as being requests from Appellant.” (Appellant’s Brf., p. 14.)

{¶29} Again, while Appellant did not request certain of the continuances, the record reflects that his actions caused the continuances. Additionally, Appellant caused multiple continuances to be longer than requested by the state due to defense counsel’s conflict in scheduling. Although Appellant contends that because he did not request continuances and this time should not be counted against him, there is no question that his counsel acquiesced to those continuances. Even so, the standard looks to whether the continuances were supported by a reasonable cause and were reasonable in length.

The question in this case is whether the final delay, from November 17, 2025 to December 2, 2025, was reasonable.

{¶30} We have previously held that a missing witness weighs more heavily in the state’s favor when determining reasonableness than a “more neutral reason,” such as “negligence or a crowded court docket.” *State v. Baker*, 2020-Ohio-7023, 114 (7th Dist.). This record reflects that the state was forced to delay trial due to its difficulty in locating P.J., a material witness who was fearful of testifying against Appellant and so had disappeared.

{¶31} There is nothing within the record that suggests any of the state’s requests for continuance were unreasonable, or unreasonably long. Appellant made P.J. fearful of testifying against him. Her fear led her to evade law enforcement. This caused the need for the state to request continuances while they undertook their search for her, and it appears that they were actually engaged in this search. Further, no continuance in this matter was for an unreasonable length of time.

{¶32} The state’s requests for continuance due to a missing material witness were reasonable. Ohio law permits reasonable continuances where a material witness cannot be located. Hence, there was no violation of Appellant’s right to a speedy trial. Appellant’s first assignment of error is without merit and is overruled.

ASSIGNMENT OF ERROR NO. 2

THE TRIAL COURT ERRED BY PERMITTING TEXT MESSAGES
COLLECTED FROM CELLBRITE TO BE INTRODUCED AS EVIDENCE
DURING APPELLANT’S JURY TRIAL.

{¶33} Appellant raises a somewhat convoluted argument in this assignment, incorporating several related arguments. He seeks to challenge the admission of certain text messages offered by the state into evidence at trial. While Appellant does not specifically raise the confrontation clause, he complains that the participants in the messages did not testify. Appellant concedes that he stipulated to the authenticity of the CellBrite extraction, but claims he did not stipulate to the admissibility of these messages. He attacks their relevancy, as they were sent some time after the murder, and classifies the contents of the messages as speculative. While he recognizes that the messages appear to address illegal activity, he argues that it is not clear whether that activity is related to the murder. Appellant also challenges that no foundation was laid to establish where the messages originated.

{¶34} The state responds by explaining that the relevance of the text messages was established during P.J.'s testimony, as those text messages tended to corroborate both her statements to police and her trial testimony. The state urges that all evidence is technically prejudicial to a criminal defendant, but this does not automatically render it inadmissible. The state argues that the evidence, here, is probative and not unduly prejudicial.

{¶35} The biggest problem with Appellant's argument is his own stipulation at trial. The language of the stipulation is as follows: "[t]he parties stipulate to the authenticity and *admissibility* of the Cellebrite extraction report and the extractor's digital contents without the need for foundational testimony from BCI personnel subject to relevance objections." (Emphasis added) (Trial Tr., p. 262.) Based on this stipulation, Appellant is unable to challenge the authenticity of the extraction, the digital contents of their

extraction, or the admissibility of the messages, except as his challenge may pertain to relevancy.

{¶36} Generally in Ohio, relevant evidence is admissible. Evid.R. 402. “Relevant evidence” is “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Evid.R. 401. “Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury.” *State v. Crump*, 2025-Ohio-2962, ¶ 30 (7th Dist.), appeal not allowed, 2025-Ohio-5661.

{¶37} The material witness, P.J., sent Det. Anderson an email requesting to meet with him on March 6, 2025. The date of their actual meeting is not clear, however, it appears it may have occurred that same day. During this meeting, she told the detective what she knew about the murder. At trial, various text messages were used to corroborate P.J.’s statement to the detective and also to corroborate her testimony. The first text exchange occurred on March 7, 2025 between Appellant and his niece. Attached to this message was a screenshot of the email P.J. sent Det. Anderson.

[Appellant:] Why this bitch inbox a detective saying she need to talk to them. Like what, because she was mad at me. Like I'm so mad now fr. That shit ain't cool at all fr. Then before she did that she was trying to say I'm sorry, and she be mad at me. And don't be meaning to say shit or do shit like, but then turn around and try to text a detective doe tf. Shaking my head.

(Trial Tr., pp. 418-419.)

{¶38} On March 11, 2025, text messages were exchanged between Appellant and a friend he referred to as “Nelly.” Attached to the first text message was the same screenshot of the email from P.J. to Det. Anderson.

[Appellant:] Yoo bruh this bitch tripping man. I need a thing ASAP.

[Nelly:] Who that.

[Appellant:] Dumb bitch thirsty, owner. That was [P.J.] bruh trying to email a sergeant. Shaking my head. This bitch need to get dealt with ASAP.

[Nelly:] What she do.

[Appellant:] She trying to tell on me about a case where these MFs know nothing about bruh because she mad. Shaking my head.

(Trial Tr., p. 417.)

{¶39} Text messages between Appellant and a friend, E.C., were also admitted. Those texts read:

[Appellant:] I don't trust this bitch bruh because why would the task force come there. I don't have no warrants or anything. I checked but she told me she gotta go down there tomorrow. But she making it seem like it's because of that one shit with dude. It's

not. They don't know anything about that shit. Shaking my head. At this point I think the bitch wants to tell on me.

[E.C.]: That's crazy.

[Appellant]: Right. Like I think they trying to build the case but how she will have to say she was there and she will be charged too for it.

(sic in passim) (Trial Tr., p. 414.) These messages were exchanged on April 9, 2025. We note that the murder occurred on October 31, 2024 and the indictment against Appellant was filed on April 10, 2025.

{¶40} On April 10, 2025, the day of the indictment, Appellant exchanged text messages with his mother: “They didn't know mom unless she says it. But this is some bullshit for she gone say she don't think I love her, so I asked her like how can you feel and say some shit like that. And I'm always at home and I know right which is BS.” (sic in passim) (Trial Tr., p. 415.)

{¶41} While Appellant claims that the subject of his texts is not clear, it is fairly clear that he is speaking about P.J. It can also reasonably be inferred that he is speaking about the murder. When these texts are read as a group, a clear pattern develops. Appellant texted screenshots of P.J.'s email to police to his friends and family. It is apparent that he knew she intended to speak to police about certain of his actions. It is also reasonable to infer that he is talking about the murder when he says that no one will know what happened unless P.J. tells what she knows. Based on the facts and circumstances of this case, Appellant would not have been connected to the murder had

P.J. not come forward to law enforcement. In addition, while the texts were exchanged months after the victim was murdered, their timing is relevant. Some of them were exchanged the day before, and the day of his indictment.

{¶42} While technically the text messages did not directly name P.J. or specifically discuss the murder, there was enough information within these texts to allow the jury to determine whether they addressed P.J. and the murder, or some unrelated event. The jury apparently believed they were relevant to connect Appellant to the shooting and that they implicated him as the shooter.

{¶43} To the extent Appellant claims the broad stipulation regarding admissibility of the texts should not have been agreed to, this issue is more appropriately raised under an ineffective assistance of counsel argument. Since Appellant has not raised such an argument, it is waived.

{¶44} Again, Appellant stipulated to all but the relevancy of the text messages. It is readily apparent that these messages are relevant to the incident and tend to implicate Appellant as the shooter. Accordingly, Appellant's second assignment of error is without merit and is overruled.

ASSIGNMENT OF ERROR NO. 3

THE TRIAL COURT DENIED APPELLANT DUE PROCESS UNDER THE
FOURTEENTH AMENDMENT DUE TO THE FACT HIS CONVICTIONS
FOR MURDER WITH FIREARM SPECIFICATIONS AND AGGRAVATED
ROBBERY WITH A FIREARM SPECIFICATION WERE AGAINST THE
MANIFEST WEIGHT OF THE EVIDENCE AND THE JURY'S VERDICT

WAS INCONSISTENT WITH THE EVIDENCE AND TESTIMONY
PRESENTED AT TRIAL.

{¶45} Although Appellant raises only manifest weight of the evidence within the heading of his assignment of error, the body of his argument also addresses the sufficiency of the evidence. Appellant challenges the credibility of P.J., the state’s key witness. As previously discussed, there was no witness to the actual shots fired in this case. However, P.J. was able to provide testimony that, if believed, implicated Appellant as the shooter. Appellant urges that by her own admission, P.J. was intoxicated while she and Appellant were at the victim’s house on the day of the murder. Appellant also relies on the fact that P.J. did not immediately inform police about what she saw and heard that day, instead waiting for some time before contacting law enforcement. When she finally did contact the detective, he says she gave several inconsistent statements. Appellant also claims that P.J. never attempted to contact the victim after they left his house that day. We note this claim contradicts the record. Appellant urges that all of these facts show that P.J. lacked credibility. Appellant also attacks the ability of Det. Anderson to provide testimony as to the exact location of his cell phone the night of the murder. Even so, Appellant posits that the information available from the cell phone towers only provides an approximate location, not the exact location of the phone.

{¶46} Appellant also challenges the jury’s determination that he fired the shots. This Court has recently acknowledged identity is an issue involving manifest weight. “While identity is an element that must be proven by the state beyond a reasonable doubt, the credibility of witnesses and their degree of certainty in identification are matters affecting the weight of the evidence.” *State v. Hill*, 2024-Ohio-2744, ¶ 31 (7th Dist.), citing

State v. Reed, 2008-Ohio-6082, ¶ 48 (10th Dist.); *State v. Bias*, 2022-Ohio-4643 (10th Dist.). Appellant’s attacks on the credibility of P.J. and Sgt. Anderson, which are the core of his argument, can only be considered as a challenge to the manifest weight of the evidence.

{¶47} 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.” (Emphasis deleted.) *Thompkins*, 78 Ohio St.3d at 387. It is not a question of mathematics, but depends on the effect of the evidence in inducing belief. *Id.* Weight of the evidence involves the state's burden of persuasion. *Id.* at 390 (Cook, J. concurring). The appellate court reviews the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses, and determines whether, in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed. *State v. Lang*, 2011-Ohio-4215, ¶ 220, citing *Thompkins* at 387. This discretionary power of the appellate court to reverse a conviction is to be exercised only in the exceptional case in which the evidence weighs heavily against the conviction. *Id.*

{¶48} “[T]he weight to be given the evidence and the credibility of the witnesses are primarily for the trier of the facts.” *State v. Hunter*, 2011-Ohio-6524, ¶ 118, quoting *State v. DeHass*, 10 Ohio St.2d 230 (1967), paragraph one of the syllabus. The trier of fact is in the best position to weigh the evidence and judge the witnesses' credibility by observing their gestures, voice inflections, and demeanor. *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984). The jurors are free to believe some, all, or none of each witness' testimony and they may separate the credible parts of the testimony from

the incredible parts. *State v. Barnhart*, 2010-Ohio-3282, ¶ 42 (7th Dist.), citing *State v. Mastel*, 26 Ohio St.2d 170, 176 (1971). When there are two fairly reasonable views of the evidence or two conflicting versions of events, neither of which is unbelievable, we will not choose which one is more credible. *State v. Gore*, 131 Ohio App.3d 197, 201 (7th Dist. 1999).

{¶49} There was no physical evidence in this case clearly tying any specific person to the crime. The sole witness was P.J. As earlier noted, P.J. did not actually see the shots fired at the victim. She was, however, present at the scene and did offer circumstantial evidence implicating Appellant as the shooter.

{¶50} P.J. had seen Appellant carry a firearm “here and there.” (Trial Tr., p. 305.)

{¶51} On the day of the murder, Appellant was driving his automobile. P.J. and her small child were his passengers. P.J. was admittedly intoxicated. She and Appellant began an argument and, at some point, she instructed Appellant to take her to the victim’s house, which she described at trial as a “safe haven.” (Trial Tr., p. 312.) She and the victim had been friendly for years, and P.J. was well aware that Appellant was jealous of her relationship with the victim.

{¶52} When they arrived at the victim’s house, they saw him sitting outside on a chair. Appellant exited the car and asked the victim if he could use the bathroom. The victim accompanied Appellant inside the house while P.J. remained in the car with the baby. Shortly thereafter, P.J. heard noises that sounded like fireworks. She left the car and started to walk towards the door of the house when Appellant exited the house. She stated Appellant “grabbed me by my collar. And he just, like, put me in the car.” (Trial Tr., p. 315.) While Appellant drove away, she said to him “I know what you did.” (Trial

Tr., p. 317.) He responded that he had done nothing. P.J. testified that she was frightened and did not want to believe Appellant may have shot her friend.

{¶53} The next day, she drove to the victim's place of work and did not see his car, which was unusual as he rarely missed work. She tried calling and texting him to no avail. She also talked to her other children and they also unsuccessfully attempted to contact the victim. When the victim's phone was recovered from his house, police confirmed that several missed calls showed on the calls logs to corroborate P.J.'s testimony. (Trial Tr., p. 380.) It was well within the jury's province to believe P.J.'s testimony, and they clearly did believe her.

{¶54} In the meantime, the victim's neighbor thought it was odd that the victim had uncharacteristically left his garage door open over the course of a few nights. His car remained in the driveway during this time. This neighbor became so concerned that he went to check on the victim. The entry door leading from the garage was unlocked. When the neighbor entered the house, he discovered the victim lying dead in a pool of blood.

{¶55} Investigators initially had no leads as to the identity of the shooter. According to P.J., she drove by the victim's house and saw the police there. She did not attempt to stop and speak to them at the time, but did address the issue with Appellant. The following text messages were exchanged:

[Appellant:] bae we have nothing to worry about.

[P.J.:] no, we do and you need to stop playing. You need to be
fucking for real.

[Appellant:] I'm not playing. And don't nobody even know what happened for real but me and you. Nobody wasn't there but me and you. So they can't listen to anybody else. Nobody didn't see me or nothing for real.

(sic in passim) (Trial Tr., p. 330.)

{¶56} However, P.J. on March 6, 2025 sent Det. Anderson an email requesting to speak with the detective on March 6, 2025. The next day, March 7, 2025, Appellant texted his niece. Attached to the message was a screenshot of the email P.J. sent Det. Anderson, which Appellant had apparently discovered.

[Appellant:] Why this bitch inbox a detective saying she need to talk to them. Like what, because she was mad at me. Like I'm so mad now fr. That shit ain't cool at all fr. Then before she did that she was trying to say I'm sorry, and she be mad at me. And don't be meaning to say shit or do shit like, but then turn around and try to text a detective doe tf. Shaking my head.

(sic in passim) (Trial Tr., pp. 418-419.)

{¶57} Several days later, Appellant entered into a text exchange with a friend he referred to as “Nelly.” Attached to the first text message was a screenshot of the email from P.J. to Det. Anderson.

[Appellant:] Yoo bruh this bitch tripping man. I need a thing ASAP.

[Nelly:] Who that.

[Appellant:] Dumb bitch thirsty, owner. That was [P.J.] bruh trying to email a sergeant. Shaking my head. This bitch need to get dealt with ASAP.

[Nelly:] What she do.

[Appellant:] She trying to tell on me about a case where these MFs know nothing about bruh because she mad. Shaking my head.

(sic in passim) (Trial Tr., p. 417.)

{¶58} Appellant then texted with a friend named E.C. about the situation. Those texts read:

[Appellant:] I don't trust this bitch bruh because why would the task force come there. I don't have no warrants or anything. I checked but she told me she gotta go down there tomorrow. But she making it seem like it's because of that one shit with dude. It's not. They don't know anything about that shit. Shaking my head. At this point I think the bitch wants to tell on me.

[E.C:] That's crazy.

[Appellant:] Right. Like I think they trying to build the case but how she will have to say she was there and she will be charged too for it.

(sic in passim) (Trial Tr., p. 414.)

{¶59} On October 10, 2025, the day Appellant was indicted in this case, he exchanged text messages with his mother: “They didn't know mom unless she says it. But this is some bullshit for she gone say she don't think I love her, so I asked her like how can you feel and say some shit like that. And I'm always at home and I know right which is BS.” (sic in passim) (Trial Tr., p. 415.)

{¶60} Based on all of this evidence, it was reasonable for the jury to find that Appellant shot and killed the victim. P.J.’s testimony strongly indicates that Appellant murdered the victim due to his anger with P.J. and her relationship with the victim. Just before the shooting, P.J. became angry with Appellant and asked to be taken to the victim’s house. Appellant was jealous of P.J.’s relationship with the victim. P.J. testified she heard sounds similar to gunshots and that Appellant prevented her from entering the house despite the fact that she had asked Appellant to take her there. The various text messages, most of which were sent just before the indictment, reveal Appellant’s growing frustration with P.J. for implicating him in a crime that would not lead police to suspect him of the crime unless P.J. “told on him.”

{¶61} Even though the state's case is supported by circumstantial, and not direct, evidence, “[c]ircumstantial evidence and direct evidence inherently possess the same probative value.” *State v. Prieto*, 2016-Ohio-8480, ¶ 34 (7th Dist.), citing *In re Washington*, 81 Ohio St.3d 337, 340 (1998); *State v. Jenks*, 61 Ohio St.3d 259, 272-273 (1991), paragraph one of the syllabus. In fact, “[e]vidence supporting the verdict may be found solely through circumstantial evidence.” *State v. Smith*, 2008-Ohio-1670, ¶ 49 (7th Dist.).

{¶62} Turning to Appellant's argument about the evidence to support his burglary conviction. While he raises the argument as a manifest weight question, his actual argument pertains to sufficiency. "Sufficiency of the evidence is a legal question dealing with adequacy." *State v. Pepin-McCaffrey*, 2010-Ohio-617, ¶ 49 (7th Dist.), citing *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). "Sufficiency is a term of art meaning that legal standard which is applied to determine whether a case may go to the jury or whether evidence is legally sufficient to support the jury verdict as a matter of law." *State v. Draper*, 2009-Ohio-1023, ¶ 14 (7th Dist.), citing *State v. Robinson*, 162 Ohio St. 486 (1955). When reviewing a conviction for sufficiency of the evidence, a reviewing court does not determine "whether the state's evidence is to be believed, but whether, if believed, the evidence against a defendant would support a conviction." *State v. Rucci*, 2015-Ohio-1882, ¶ 14 (7th Dist.) citing *State v. Merritt*, 2011-Ohio-1468, ¶ 34 (7th Dist.).

{¶63} In reviewing a sufficiency of the evidence argument, the evidence and all rational inferences are evaluated in the light most favorable to the prosecution. *State v. Goff*, 82 Ohio St.3d 123, 138 (1998). A conviction cannot be reversed on the grounds of sufficiency unless the reviewing court determines no rational juror could have found the elements of the offense proven beyond a reasonable doubt. *Id.*

{¶64} As to Appellant's aggravated burglary conviction, the elements are found within R.C.2911.11(A):

(A) No person, by force, stealth, or deception, shall trespass in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, when another person other than an accomplice of the offender is present, with purpose to commit in the structure or in the

separately secured or separately occupied portion of the structure any criminal offense, if any of the following apply:

(1) The offender inflicts, or attempts or threatens to inflict physical harm on another;

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

{¶65} While Appellant argued at trial that nothing was taken from the victim or his house, the elements of burglary do not require a taking of property. Instead, they prohibit a person from entering the occupied dwelling of another with the intent to commit a crime once inside where the perpetrator inflicts or attempts to inflict physical harm on another.

{¶66} Appellant complains he should not have been convicted absent evidence that something had been taken. Appellant is misguided in this belief. The state alleged Appellant committed aggravated burglary when he entered the victim's house with the victim (entrance into an occupied dwelling) by deception (claiming that he needed to use the restroom) where he shot and killed the victim. The jury found Appellant acted deceptively when he asked to use the restroom, which is a reasonable finding. There is no accusation that Appellant removed (or stole) any goods or property from the premises, and this is not an element of the crime Appellant was convicted of committing. The record shows that evidence was admitted on each element of aggravated burglary and the jury reasonably weighed that evidence to convict. Appellant's conviction is supported by the sufficiency of the evidence.

{¶67} The records shows that Appellant's convictions were fully supported by the weight of all of the evidence and each element of the crimes were proven. Nothing here leads to the conclusion that the jury clearly lost its way. As such, Appellant's third assignment of error is without merit and is overruled.

ASSIGNMENT OF ERROR NO. 4

THE CUMULATIVE EFFECT OF MULTIPLE ERRORS AT TRIAL, EVEN IF SINGULARLY INSUFFICIENT TO WARRANT REVERSAL, TOGETHER DEPRIVED APPELLAANT [sic] OF A FAIR TRIAL AND HIS CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

{¶68} Appellant argues that the jury's verdict must be reversed based on the cumulative error doctrine.

Under the doctrine of cumulative error, a conviction will be reversed when the cumulative effect of error during a trial deprives a defendant of a fair trial even though each of the alleged instances of error do not individually constitute cause for reversal. *State v. DeMarco*, 31 Ohio St.3d 191, 509 N.E.2d 1256 (1987). An error-free, perfect trial does not exist, and is not guaranteed by the Constitution. *State v. Hill*, 75 Ohio St.3d 195, 212, 661 N.E.2d 1068 (1996). In order to find cumulative error, a record must contain multiple instances of harmless error. *State v. Austin*, 7th Dist. Mahoning No. 16 MA 0068, 2019-Ohio-1185, ¶ 64. When an appellate court determines no error has occurred, the doctrine cannot apply. *State v.*

Lyons, 7th Dist. Jefferson No. 16 JE 0008, 93 N.E.3d 139, 2017-Ohio-4385,
¶ 46.

State v. Italiano, 2021-Ohio-1283, ¶ 35 (7th Dist.).

{¶69} As our review has determined there was no error in this case, it is apparent there can be no cumulative error argument. Appellant’s fourth assignment of error is without merit and is overruled.

Conclusion

{¶70} Appellant contends that the state failed to try him within the strictures of Ohio speedy trial law. On review, it is apparent that Appellant was timely tried. Next, Appellant contends that the court improperly admitted evidence of text messages extracted through the CellBrite program. However, Appellant stipulated to all but the relevancy of this evidence, but the relevancy of evidence was shown in the record. Appellant also argues that his convictions are against the manifest weight of the evidence. This record reveals that the evidence offered was sufficient to convict and Appellant’s convictions were fully supported by the weight of this evidence. Finally, Appellant invokes the cumulative error doctrine, but as no error was found it is axiomatic there can be no cumulative error. For the reasons provided Appellant’s arguments are without merit and the judgment of the trial court is affirmed.

Robb, J., concurs.

Dickey, J., concurs.

For the reasons stated in the Opinion rendered herein, the assignments of error are overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas of Mahoning County, Ohio, is affirmed. Costs to be waived.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.