

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
v.	:	No. 116165
DEAARRON KING,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: September 10, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-703471-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Jamielle Lamson-Buscho, Assistant Prosecuting Attorney, *for appellee*.

Allison S. Breneman, *for appellant*.

KATHLEEN ANN KEOUGH, J.:

{¶ 1} Defendant-appellant Deaarron King appeals his convictions for attempted rape and gross sexual imposition. Finding no merit to the appeal, we affirm his convictions.

{¶ 2} In July 2025, the State charged King with kidnapping, attempted rape, and gross sexual imposition. A jury found King not guilty of kidnapping but guilty of attempted rape and gross sexual imposition. At sentencing, the trial court imposed two years of community-control sanctions, including a six-month sentence at a community-based correctional facility. This appealed followed.

{¶ 3} In his first and second assignments of error, King contends that his convictions are not supported by sufficient evidence and are against the manifest weight of the evidence. This court disagrees.

{¶ 4} The Supreme Court of Ohio has “carefully distinguished the terms ‘sufficiency’ and ‘weight’ . . . declaring that ‘manifest weight’ and ‘legal sufficiency’ are ‘both quantitatively and qualitatively different.’” *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 10, quoting *State v. Thompkins*, 1997-Ohio-52, paragraph two of the syllabus. Although challenging a conviction based on insufficient evidence and as being against the manifest weight of the evidence is both quantitatively and qualitatively different and require different standards of review, we will address these challenges together because King raises similar arguments under both assignments of error.

{¶ 5} The test for sufficiency requires a determination of whether the prosecution met its burden of production at trial. *State v. Messenger*, 2022-Ohio-4562, ¶ 26. An appellate court’s function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, “‘if believed, would convince the average

mind of the defendant’s guilt beyond a reasonable doubt.” *State v. Pountney*, 152 2018-Ohio-22, ¶ 19, quoting *State v. Jenks*, 61 Ohio St.3d 259, paragraph two of the syllabus. “The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *State v. Walker*, 2016-Ohio-8295, ¶ 12, quoting *Jenks* at *id.*

{¶ 6} Weight of the evidence, on the other hand, 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. . . . Weight is not a question of mathematics, but depends on its effect in inducing belief.” *Eastley* at ¶ 12, quoting *Thompkins* at ¶ 24.

{¶ 7} The Ohio Supreme Court recently clarified the manifest-weight standard of review in *State v. Reillo*, 2026-Ohio-2701. The court reiterated that

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.

(Cleaned up.) *Id.* at ¶ 26.

{¶ 8} Additionally, the court reminded reviewing courts that it 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 . . . [and] [i]n such cases, the court sits as the ‘thirteenth juror’ who may disagree with the fact-finder’s resolution of the *conflicting evidence*.” (Emphasis in original.) (Cleaned up.) *Id.* at ¶ 27. As such, “[o]rdinarily courts must have conflicting evidence to conduct a manifest-review”

that must be “more than a mere inconsistency . . . because appellate courts must give deference to the fact-finders.” *Id.* at ¶ 30, 32. The reviewing court “must always be mindful of the presumption in favor of the finder of fact,” and “if the evidence is susceptible to more than one construction, the reviewing court is bound to give it the interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment.” (Cleaned up.) *Id.* at ¶ 28.

{¶ 9} Accordingly, the *Reillo* Court clarified that reviewing courts “must still give some deference to a fact-finder’s credibility determinations, [and sit] as the thirteenth juror only when evidence contradicts a fact-finder’s findings . . . or when a witness’s testimony is so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable.” (Cleaned up.) *Id.* at ¶ 3.

{¶ 10} King was convicted of attempted rape in violation of R.C. 2923.02 and 2907.02(A)(2). The jury found that King attempted to engage in sexual conduct with the victim by purposely compelling her to submit by force or threat of force. R.C. 2907.01(A) defines “sexual conduct” as “vaginal intercourse between a male and female; anal intercourse, fellatio . . . and, without privilege to do so, the insertion, however slight, of any part of the body . . . into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.”

{¶ 11} The jury also convicted King of gross sexual imposition in violation of R.C. 2907.05(A)(1), finding that King had sexual contact with the victim by purposefully compelling her to submit by force or threat of force. R.C. 2907.01(B) defines “sexual contact” as “any touching of an erogenous zone of another, including

without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.”

{¶ 12} The victim, age 22, testified that in high school, she and King had dated and engaged in sexual intercourse. Since that time, however, they were not sexually involved, although it was not uncommon that when they saw each other, she would kiss and hug him. On June 28, 2025, the victim was working alone during an afternoon shift at a convenience store when King arrived in his car and parked at a gas pump. She stated that King coming to the store was not unusual and they had previously talked about hanging out together again. The victim testified that they exchanged text messages, during which she stated, “not that I don’t want to like you, but I don’t know if we both know we ain’t going to be together, I don’t want to confuse us.” (Exhibit No. 6B.) After they exchanged messages, the victim went outside and gave King a hug and kiss.

{¶ 13} King subsequently entered the convenience store and went inside the men’s public bathroom. The victim stated that King told her that the men’s room was out of paper towels; she provided him with a replacement roll. According to the victim, King texted her for help but, when she went back to the bathroom, King had already replaced the paper towel roll.

{¶ 14} After she returned to the store front, she received another text message from King that a men’s room stall had no toilet paper. She testified that when she walked to the men’s room stall, King pulled her in and locked the stall door behind them. The victim testified that King “started kissing [her], feeling on [her],

like just like grabbing on [her], like [her] breasts, [her] behind,” and pulling on her clothing. (Tr. 326.) Although she willingly kissed him in the stall, she subsequently told him, “[N]o, I don’t want to do it.” (Tr. 326-327.) Despite saying “no,” King pushed her against the wall, held her with his arm, and pulled her pants down. She testified that she told him, “[S]top, get off of me” but, instead of stopping, King attempted to engage in sex with her by bending her over and manipulating her buttocks. (Tr. 327.) To escape King’s attempts, she crouched down, preventing him from penetrating her, and then she tried to leave. When she did this, however, King pushed her head toward his exposed penis. The victim was able to push herself away from King, telling him, “[N]o, this is not the time or place.” (Tr. 328.) King left the bathroom and exited the store. He subsequently sent the victim a text message saying, “[N]ow my hoodie smell like you.” (Tr. 336; exhibit No. 6B.)

{¶ 15} The victim returned to the storefront where customers were waiting for her. She texted her friend that King tried to rape her and that she was “freaking out.” The victim then texted her mother and told her what had happened. The victim’s father drove to the store and took the victim to the Garfield Heights Police Department where the victim reported the sexual assault. After she made the police report, the victim when to Marymount Hospital and a sexual examination was performed by Maria Morales Dvorak, a sexual assault nurse examiner (“SANE”).

{¶ 16} Dvorak testified that she examined the victim and explained to the jury the process, including which areas of the victim’s body she swabbed for potential DNA testing and that she collected the victim’s clothing. Over objection,

she read her written report of the victim's narrative of the assault that the victim provided during the examination. Subsequent DNA testing could not exclude or include King as a minor contributor of the male DNA on the tested samples because the samples were of insufficient quality.

{¶ 17} Garfield Heights Police Officer Caleb Carrington testified that he took the initial report, including a written statement from the victim when she and her father came to the police station to report the assault. According to the officer, the victim provided him with text messages exchanged between her and King and further identified King from a photo array as the person who sexually assaulted her.

{¶ 18} Garfield Heights Detective James Seawright testified that he investigated the assault and interviewed the victim. He described her demeanor as “avoidance, depressed, a little bit hysterical. She would cry and shake a little bit.” (Tr. 437.) The detective agreed with the prosecutor's question that her demeanor was not uncommon in these types of cases. As part of his investigation, he also obtained security video footage from the convenience store where the assault took place. The jury watched the security videos as Detective Seawright explained the vantage point of each video.

{¶ 19} King contends in his second assignment of error that the State presented insufficient evidence because the victim did not clearly or definitively tell King “no,” since she also told him during the assault that “it was not the time or place.” Accordingly, he contends that it was reasonable to conclude that his

touching was wanted by the victim based on prior interactions and flirting. King's arguments are without merit.

{¶ 20} Viewing the foregoing testimony and evidence in favor of the State, sufficient evidence supports King's convictions for attempted rape and gross sexual imposition. The victim stated that King initially held her against the wall, forcibly kissed her, and grabbed her breast and buttocks. According to the victim, King then exposed himself, pulled down the victim's pants, and attempted to insert his penis into her body. She further stated that after she crouched down to escape King's attempts, King pushed her head toward his exposed penis, touching it to her face. During this entire interaction, the victim told King "no" and further rebuffed the unwanted sexual contact; there was nothing ambiguous about the victim's protestations. Accordingly, we overrule King's second assignment of error.

{¶ 21} King nevertheless contends in his first assignment of error that his convictions are against the manifest weight of the evidence because the two had previously engaged in flirtatious behavior and she did not definitively insist that sexual conduct or contact was unwelcomed or tell him to "stop." We disagree.

{¶ 22} The record is replete with instances where the victim told King to "stop" and told him "no." Moreover, her statement that this was "not the time or place" was not an invitation, but an attempt to further express to King that his conduct was also not appropriate based on their surroundings. Reading anything further into the victim's statement is specious.

{¶ 23} King has not pointed to any contradictory material facts or directly impeached testimony, nor has he presented any evidence satisfying the “fantastical” standard as set forth in *Reillo*, 2026-Ohio-2701. This is not the exceptional case requiring this court to step in as the “thirteenth juror,” reverse his convictions, and order a new trial. Affording proper deference to the fact-finder’s verdict, we find the jury did not clearly lose its way and create such a manifest miscarriage of justice requiring reversal. Accordingly, King’s convictions are not against the manifest weight of the evidence, and we overrule his first assignment of error.

{¶ 24} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant’s convictions having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KATHLEEN ANN KEOUGH, JUDGE

EILEEN T. GALLAGHER, P.J., and
DEENA R. CALABRESE, J., CONCUR