

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 116034
	:	
v.	:	
	:	
FELIX GONZALEZ,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: October 22, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-705883-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Mallory Parker, Assistant Prosecuting Attorney, *for appellee*.

Michael T. Fisher, *for appellant*.

TIMOTHY W. CLARY, J.:

{¶ 1} Defendant-appellant Felix Gonzalez (“Gonzalez”) appeals his convictions and sentence following a bench trial. For the following reasons, we affirm.

I. Factual and Procedural History

{¶ 2} This case stems from incidents that occurred between Gonzalez and victim, E.B., from May 23, 2025, through September 27, 2025.

{¶ 3} On October 3, 2025, a Cuyahoga County Grand Jury indicted Gonzalez on 12 counts, including domestic violence, menacing by stalking, grand theft of a motor vehicle, criminal damaging or endangering, criminal trespass, and aggravated menacing. Gonzalez pleaded not guilty to all counts and was released with GPS monitoring and a no-contact order.

{¶ 4} On December 17, 2025, Gonzalez voluntarily waived his right to a jury trial and the court commenced a bench trial. At trial, the State introduced testimony from E.B., her 17-year-old son M.J., and patrol officer Jonathan Kozera (“Officer Kozera”).¹

{¶ 5} E.B. testified that she and Gonzalez dated from April 2024 through April 2025, during which time Gonzalez often stayed at her home three to four times a week, and he lived with her on a full-time basis from May 2024 through December 2024. E.B. ended the relationship in April 2025 because they “couldn’t get along,” Gonzalez was “very controlling” and “very verbally abusive,” and E.B. did not agree with Gonzalez’s lifestyle or how he treated her children. Tr. 23. After E.B. terminated the relationship, she blocked Gonzalez on her mobile phone but he continued to contact her through email or the use of a new mobile phone.

¹ E.B. testified that Gonzalez has two surnames — Rivera and Gonzalez. E.B. referred to him at trial as “Felix Rivera,” but we refer to the appellant as “Gonzalez.”

{¶ 6} E.B. further testified about six encounters with Gonzalez following the termination of their relationship. On May 23, 2025, Gonzalez used E.B.'s Honda without permission. Gonzalez called E.B. the same day to inform her that the Honda had two flat tires and to ask if she would have the vehicle towed to her home. E.B. refused to have the Honda towed, and Gonzalez abandoned the vehicle at a gas station on Brook Park Road. When E.B. located the vehicle that evening, she discovered what she described as "blown out" tires and a detached front headlight. Tr. 25. E.B. reported the property damage to the police and had the Honda towed to her home. E.B. testified that Gonzalez caused the property damage and she assumed his drinking while driving was a contributing factor. On cross-examination, E.B. testified that on May 23, 2025, Gonzalez had permission to enter her home where the Honda key was accessible to him, but she denied that he had permission to drive the vehicle.

{¶ 7} According to E.B., on the next day — May 24, 2025 — Gonzalez arrived at her home, without permission, and stated that he intended to repair the Honda's damaged tires. E.B. told Gonzalez "to leave the vehicle as is because it couldn't be repaired." Tr. 28. E.B. also stated that she had not invited Gonzalez to her home and when he refused to leave, she contacted the police. The police arrived and removed Gonzalez from the premises. On cross-examination, E.B. stated that she had a Ring camera that recorded interactions outside the front door of her home but she denied having a Ring camera recording from that day showing her interactions with Gonzalez or his interactions with the police.

{¶ 8} E.B. testified that on May 30, 2025, Gonzalez slashed the tires on her Chevy Equinox truck when the vehicle was parked at her home. The State played E.B.'s 911 call that reported the incident; during the call, E.B. stated that she had observed Gonzalez slash the tires. The State also introduced photographs that depicted the damaged tires. E.B. testified that her front door Ring camera could potentially capture someone slashing the tires on her vehicle depending upon where the vehicle was parked. E.B. clarified that because her truck had been parked on the driveway behind a closed gate, it was outside the range of the Ring camera. E.B. also testified that she parked the truck behind the closed gate in an attempt to protect it from property damage. E.B. testified that Gonzalez was not living with her at the time of the May 30th incident nor were they in a relationship at that time.

{¶ 9} On June 2, 2025, without invitation, Gonzalez's brother allegedly drove Gonzalez to E.B.'s home where Gonzalez encountered E.B. standing in the driveway holding her Honda car keys. Per E.B., Gonzalez attempted to grab her keys and a scuffle ensued in which Gonzalez pushed her to the ground, hit her on the back of the head, and took her wig. E.B. described the hit as a "bop to the back of the head" that did not cause an injury or require medical attention. Tr. 32. The State introduced a Ring camera recording that showed Gonzalez's arrival at E.B.'s home as a passenger in a car and Gonzalez walking down the driveway, beyond the camera's range. The camera recording also showed M.J., E.B.'s son, on the front porch observing Gonzalez walk down the driveway; M.J. yelling at Gonzalez; M.J. racing around the corner of the house after Gonzalez; Gonzalez running down the

driveway towards a vehicle parked on the street; and the parked vehicle driving away.

{¶ 10} E.B. testified that on the morning of June 7, 2025, she found that her two newly replaced truck tires had been slashed again. The truck had been parked on her driveway, behind the closed gate. E.B. denied that she was engaged in a relationship or living with Gonzalez at that time or that he had permission to be on her property. The State played a Ring camera recording that showed, at 3:05 a.m., a person running from E.B.'s backyard to a vehicle parked on the street and, once the person entered the passenger side door, the vehicle driving away. The video did not show the individual's face but E.B. stated that she "knows how [Gonzalez] looks" and identified the individual as Gonzalez. Tr. 38. E.B. denied having a Ring camera recording that reflected Gonzalez slashing her truck tires.

{¶ 11} On the same date, Gonzalez sent emails to E.B. around 7:00 a.m. that read, verbatim:

I still have hope for us maybe if you talked to me just as friends just to keep me and my pain at ease I wouldn't be stupid s**t but yo you leaving me for dead and blocking me doesn't help me nor you if you don't at least talk to me over the phone once in a while as friends and unblock me from everything I won't go through with what I have planned if you don't think I'm serious keep ignoring me and keeping me blocked you will regret not talking to me over the phone

...

If you want to keep driving that car and living in that house I strongly suggest you be nice to me and not treat me like garbage anymore I love you E. Rivera

...

If not I'ma dedicate the rest of my life in making sure I hurt you in every way possible and make your life miserable and a living hell . . . All I want is being able to communicate with you here and there all I ask for

State's exhibit Nos. 10-12. E.B. verified that the email exchanges were sent between her and Gonzalez's email accounts. Additionally, E.B. testified that she considered the emails a threat that Gonzalez would continue to damage her house or vehicle, which was disappointing to her "because . . . [she has] kids in the house. It was more so that [she] was upset, angry." Tr. 41.

{¶ 12} E.B. stated that on September 27, 2025, she permitted Gonzalez to enter her home and he spent the night in her bedroom while she slept on the couch. E.B. testified that the following morning, Gonzalez was difficult to be around because "he was coming down from a high." Tr. 41. E.B. described Gonzalez as "verbally aggressive" and stated he kept touching one of her sons even though he was asked to stop. Tr. 41. She also stated that Gonzalez exited an upstairs bedroom without any clothes on and, because E.B. did not want to engage in sexual activity, he ejaculated on the carpeting. E.B. exited the house, stood in the backyard with her children, and called the police. When the police arrived, they retrieved Gonzalez from upstairs. As the police escorted Gonzalez out the front door, he spit on E.B. and lunged at her.

{¶ 13} E.B. testified that after she and Gonzalez broke up in April 2025, he lived with his parents where she would occasionally visit him. E.B. also testified that she allowed Gonzalez to stay at her home for a day or so and this occurred "maybe

once a week.” Tr. 47. E.B. expounded on why she allowed Gonzalez access to her home following their breakup:

So to be rational, the reason I allowed him to come over was because my vehicle. My vehicle, my tires stopped getting damaged and things were not happening to my vehicle, so I did allow him over, but it wasn't like I wanted that.

I mean, I didn't want that because it was setting a bad example for my kids as well as myself. So it's not like I wanted him to be over, but my vehicle stopped getting damaged and I didn't have to worry about where he was as far as if he was going to continue to come back-and-forth over.

Tr. 47-48. E.B. denied that she ever considered Gonzalez a family member, and she denied that Gonzalez ever acted as a parent or father-figure to her children.

{¶ 14} M.J. testified he lives with his mother, E.B. M.J. further testified that Gonzalez dated his mother for approximately one year, during which time Gonzalez lived at their family home from 2024 through the fall of 2025.

{¶ 15} M.J. stated that he was at home on June 2, 2025, when Gonzalez's brother drove Gonzalez to E.B.'s home. M.J. testified that Gonzalez arrived unannounced and attempted to forcefully remove E.B.'s car keys from her possession. M.J. described the interaction as a “tussle” in which E.B. was knocked to the ground and hit by Gonzalez. M.J. stated that he defended his mother by jumping on Gonzalez's back, which resulted in Gonzalez leaving the premises. M.J. testified that his mother was not physically injured in the altercation.

{¶ 16} Officer Kozera, a patrol officer with the City of Cleveland Division of Police, testified that he responded to E.B.'s home on September 27, 2025, when E.B.

reported she had a temporary protection order against Gonzalez who was in her home. Officer Kozera testified that Gonzalez also had an outstanding warrant for his arrest. Upon arriving at E.B.'s home, Officer Kozera spoke with E.B. on the front porch and she informed him that Gonzalez was upstairs lying on her bed. Officer Kozera stated that he entered the home, located Gonzalez, informed him that he was under arrest, and placed him in handcuffs. Officer Kozera testified that as he led Gonzalez through the front door, Gonzalez lunged towards E.B., who was seated on the front porch, and spat on her.

{¶ 17} Following the State's case-in-chief, Gonzalez made a Crim.R. 29 motion for acquittal on Counts 1 and 12, and the court held the motion in abeyance. The defense rested without the introduction of any evidence.

{¶ 18} On December 18, 2025, the court found Gonzalez not guilty of Count 1, domestic violence, because the State failed to prove beyond a reasonable doubt that E.B. and Gonzalez were family or household members as required under R.C. 2919.25(A). However, the trial court found Gonzalez guilty of assault — the lesser included offense of domestic violence — in violation of R.C. 2903.13(A). The trial court also found Gonzalez guilty of Counts 2 and 3, menacing by stalking; Count 6, grand theft; Counts 7, 9, and 10, criminal damaging; and Count 8, criminal trespassing. The trial court found Gonzalez not guilty of Counts 4 and 5, menacing by stalking; Count 11, aggravated menacing; and Count 12, domestic violence with a furthermore clause. The court heard from Gonzalez, and the victim's written

statement was read in open court; the court then imposed an aggregate prison sentence of ten months.

{¶ 19} On January 15, 2026, Gonzalez filed a notice of appeal and now presents one assignment of error:

Appellant’s convictions are against the Manifest Weight of the evidence in violation of his Right to Due Process as provided by the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

II. Legal Analysis

{¶ 20} In his sole assignment of error, Gonzalez challenges his convictions as being against the manifest weight of the evidence.

{¶ 21} A manifest-weight challenge questions the credibility of the evidence presented and examines whether the State met its burden of persuasion at trial. *State v. Whitsett*, 2014-Ohio-4933, ¶ 26 (8th Dist.), citing *State v. Thompkins*, 1997-Ohio-52, ¶ 24; *State v. Bowden*, 2009-Ohio-3598, ¶ 13 (8th Dist.), citing *Thompkins* at ¶ 33.

{¶ 22} “In our manifest-weight review of a bench trial verdict, we recognize that the trial court serves as the factfinder, and not the jury.” *Cleveland v. McCoy*, 2023-Ohio-3792, ¶ 26 (8th Dist.), citing *State v. Travis*, 2022-Ohio-1233, ¶ 28 (8th Dist.). “[T]o warrant reversal from a bench trial under a manifest weight of the evidence claim, this court must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine whether in resolving conflicts in evidence, the trial court clearly lost its way and created such

a manifest miscarriage of justice that the judgment must be reversed, and a new trial ordered.” *State v. Kennedy*, 2024-Ohio-1586, ¶ 65, quoting *State v. Strickland*, 2009-Ohio-3906, ¶ 25 (8th Dist.); *State v. Reillo*, 2026-Ohio-2701, ¶ 26.

{¶ 23} “When considering whether a judgment is against the manifest weight of the evidence in a bench trial, an appellate court will not reverse a conviction where the trial court could reasonably conclude from substantial evidence that the state has proved the offense beyond a reasonable doubt.” *State v. Tranovich*, 2009-Ohio-2338, ¶ 7 (12th Dist.), citing *State v. Eskridge*, 38 Ohio St.3d 56, 59 (1988). A conviction should be reversed as against the manifest weight of the evidence ““only in the exceptional case in which the evidence weighs heavily against the conviction.”” *Reillo* at ¶ 27, quoting *State v. Brown*, 2025-Ohio-2804, ¶ 30, quoting *Thompkins* at ¶ 25, quoting *State v. Martin*, 20 Ohio App.3d 172 (1st Dist. 1983), paragraph three of the syllabus.

{¶ 24} “[T]he decision whether, and to what extent, to credit the testimony of a particular witness is within the peculiar competence of the factfinder, who has seen and heard the witness.” *State v. Johnson*, 2014-Ohio-494, ¶ 54 (8th Dist.). ““Because the factfinder * * * has the opportunity to see and hear the witnesses, the cautious exercise of the discretionary power of a court of appeals to find that a judgment is against the manifest weight of the evidence requires that substantial deference be extended to the factfinder’s determinations of credibility.”” *State v. Robinson*, 2013-Ohio-4375, ¶ 56 (8th Dist.), quoting *State v. Lawson*, 1997 Ohio

App. LEXIS 3709 (2d Dist. Aug. 22, 1997). Regarding this presumption in favor of the finder of fact, the Ohio Supreme Court recently explained that

the [reviewing] court sits as a ““thirteenth juror” who may disagree with the fact-finder’s resolution of the conflicting evidence.”

But “[i]n weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.” ““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.”” “The underlying rationale of giving deference to the findings of the [fact-finder] rests with the knowledge that the [fact-finder] is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.”

(Cleaned up.) *State v. Reillo*, 2026-Ohio-2701, ¶ 27-28.

A. Assault

{¶ 25} Gonzalez argues that the assault conviction was contrary to the weight of the evidence because E.B. did not sustain an injury. E.B. and M.J. both testified about the June 2, 2025 scuffle between E.B. and Gonzalez, and both stated that E.B. did not sustain an injury when Gonzalez pushed her to the ground and “bopped” her on the back of the head.

{¶ 26} Gonzalez’s argument overlooks the plain language of Ohio’s assault statute, which states that “[n]o person shall knowingly cause or *attempt to cause* physical harm to another or to another’s unborn.” (Emphasis added.) R.C. 2903.13(A). The statute does not require an individual to cause physical harm but also prohibits one from attempting to cause physical harm to another. *State v. Wacasey*, 2025-Ohio-1257, ¶ 21 (8th Dist.) (“The act of biting the officer is sufficient

to demonstrate a knowing attempt to cause physical harm. That no harm was actually caused because of the officer's protective vest is immaterial."); *State v. Bickerstaff*, 2026-Ohio-1358, ¶ 15 (5th Dist.), quoting *State v. Buchar*, 2017-Ohio-7601, ¶ 23 (5th Dist.) ("The State did not need to prove that [the victim] was actually injured, only that Bickerstaff attempted to cause physical harm."); *State v. Hudson*, 2019-Ohio-3497, ¶ 9 (1st Dist.) ("Physical harm is not a requirement" under R.C. 2903.13(A)).

{¶ 27} The evidence demonstrated that Gonzalez attempted to harm E.B. — as required under R.C. 2903.13(A) — and, therefore, the assault conviction was not against the manifest weight of the evidence.

B. Menacing by Stalking

{¶ 28} The trial court found Gonzalez guilty of two counts of menacing by stalking pursuant to R.C. 2903.211, that reads in part:

No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person.

R.C. 2903.211(A)(1). Count 2 included a furthermore clause that reads "the offender made a threat of physical harm to or against the victim," and Count 3's furthermore clause stated, "[T]he offender trespassed on the land or premises where the victim lives, was employed, or attends school."

{¶ 29} Gonzalez argues that the convictions on Counts 2 and 3 were against the manifest weight of the evidence because E.B. testified only to feelings of

annoyance and the occurrence of property damage but “never testified about mental distress other than fear that [Gonzalez] would damage her vehicles based upon isolated incidents involving damage to her car tires.” Appellant’s brief, p. 14. Gonzalez further argued that his presence at E.B.’s home on September 27, 2025, demonstrated an ongoing relationship between E.B. and him, which “did not rise to the level of stalking.” Appellant’s brief, p. 15.

{¶ 30} Gonzalez cites no case law in support of his allegation that an ongoing relationship between him and E.B. negates a conviction of menacing by stalking. “If an argument exists that can support [the] assigned error, it is not this court’s duty to root it out.” *Strauss v. Strauss*, 2011-Ohio-3831, ¶ 72 (8th Dist.), quoting *Cardone v. Cardone*, 1998 Ohio App. LEXIS 2028 (9th Dist. May 6, 1998).

{¶ 31} We also find Gonzalez’s arguments regarding the absence of mental distress unpersuasive. The menacing by stalking statute defines mental distress as follows:

(a) Any mental illness or condition that involves some temporary substantial incapacity;

(b) Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

R.C. 2903.211(D)(2). “Mental distress does not need to be incapacitating or debilitating, and expert testimony is not needed to prove it.” *State v. Crawl*, 2025-Ohio-2799, ¶ 13. Moreover, “[a] trial court is permitted to rely on its knowledge and experience in determining whether mental distress has been caused.” *State v.*

Szloh, 2010-Ohio-3777, ¶ 18 (2d Dist.), quoting *Perry v. Joseph*, 2008-Ohio-1107, ¶ 8 (10th Dist.).

{¶ 32} The evidence demonstrates that from May 2025 through September 2025, Gonzalez assaulted E.B., used her vehicle without permission, damaged her vehicles, refused to leave her home when asked, and sent threatening email messages. E.B. altered where she parked her truck on her property in an attempt to protect the vehicle from further damage. E.B. reportedly maintained contact with Gonzalez not because she wanted to communicate with him but because it would make it less likely that he would damage her property or access her home without permission. Gonzalez threatened that unless E.B. communicated with him, he would dedicate his life to making her life miserable and “a living hell” and he would “mak[e] sure [he] hurt [her] in every way possible.” Gonzalez was reportedly verbally aggressive with E.B. and her family, and rather than leave her house when asked, he performed unacceptable acts inside her home and the police were required to escort him from the premises.

{¶ 33} Deferring to the trial court’s assessment of the evidence, we find the manifest weight of the evidence supports a finding that Gonzalez caused E.B. mental distress and, accordingly, the menacing-by-stalking convictions.

C. Grand Theft

{¶ 34} The trial court found Gonzalez’s actions on May 23, 2025, constituted theft under R.C. 2913.02(A)(1): “No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property

or services . . . [w]ithout the consent of the owner or person authorized to give consent.”

{¶ 35} Gonzalez argues that the evidence did not support a theft conviction because he informed E.B. about the property damage to the Honda and he offered the next day to repair the damage. We disagree.

{¶ 36} This court has previously stated that under R.C. 2913.02, the State must establish a defendant’s intent to deprive at the time the property was taken. *State v. McGowan*, 2011-Ohio-6166, ¶ 36 (8th Dist.), citing *Brooklyn v. Fouche*, 2006-Ohio-169, ¶ 37 (8th Dist.). “The fact that appellant changed his mind after the theft and, for whatever reason, abandoned [the taken property] is irrelevant.” *McGowan* at ¶ 36.

{¶ 37} The grand-theft conviction was not against the manifest weight of the evidence.

D. Criminal Damaging or Endangering

{¶ 38} The trial court convicted Gonzalez on the following counts in violation of R.C. 2909.06(A)(1), criminal damaging or endangering: Count 7 for damage caused to the Honda on May 23, 2025, Count 9 for damage to the Chevy Equinox truck on May 30, 2025, and Count 10 for damage to the Chevy Equinox truck on June 7, 2025. R.C. 2909.06(A)(1) reads: “No person shall [knowingly, by any means,] cause, or create a substantial risk of physical harm to any property of another without the other person’s consent.”

{¶ 39} Gonzalez argues there was no evidence to support a conviction on Count 7 finding that he knowingly or recklessly caused damage to E.B.'s Honda on May 23, 2025. He denies that E.B. testified that Gonzalez intentionally damaged her Honda but claims she did not know how the property damage occurred. Gonzalez does not question his convictions on Count 9 or 10.

{¶ 40} Gonzalez essentially presents a sufficiency-of-the-evidence argument even though his appeal is premised on a manifest-weight-of-the-evidence standard. “The theoretical underpinnings of a manifest weight of evidence argument assume[] that the sufficiency of the evidence has been established.” *State v. Johnson*, 2016-Ohio-867, ¶ 8 (4th Dist.); *State v. Thompkins*, 78 Ohio St.3d 380, 388 (1997), quoting *Tibbs v. Fla.*, 457 U.S. 31, 41-43 (1982); (“A reversal based on the weight of the evidence . . . can occur only after the State both has presented sufficient evidence to support conviction and has persuaded the [factfinder] to convict.”)

{¶ 41} Further, E.B. testified that on May 23, 2025, Gonzalez had access to her home and Honda key but he did not have permission to drive the Honda. She further stated that Gonzalez called her that day to inform her that he had experienced two flat tires while driving the Honda. E.B. described the damage to the Honda as having two “blown out” tires and a detached headlight. Tr. 25. E.B. explicitly stated that Gonzalez lacked permission to use the Honda and the Honda was damaged by Gonzalez. The conviction on Count 7 was not against the manifest weight of the evidence.

E. Criminal Trespass

{¶ 42} Gonzalez argues that the conviction of criminal trespass was against the manifest weight of the evidence because on May 24, 2025, Gonzalez “showed up to repair the damage caused accidentally the day before” and he eventually left E.B.’s home when E.B. stated the Honda was damaged beyond repair and the police encouraged him to leave.

{¶ 43} R.C. 2911.21(A)(1) states that no person, without privilege to do so, shall “[k]nowingly enter or remain on the land or premises of another.”

{¶ 44} E.B. testified that on May 24, 2025, Gonzalez arrived at her home without permission, he did not leave when asked to do so, and police intervention was required to remove Gonzalez from the premises. Gonzalez’s conviction of criminal trespass was not against the manifest weight of the evidence.

{¶ 45} For the foregoing reasons, we find that the convictions of assault, menacing by stalking, grand theft, criminal damaging or endangering, and criminal trespass were not against the manifest weight of the evidence and, accordingly, overrule Gonzalez’s assignment of error.

{¶ 46} Judgment affirmed.

It is ordered that appellee recover from appellant the 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

conviction 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.

TIMOTHY W. CLARY, JUDGE

MARY J. BOYLE, P.J., and
ANITA LASTER MAYS, J., CONCUR