

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

CITY OF CLEVELAND,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 116133
v.	:	
	:	
SIVA SAI KRISHNA GUNTUPALLI,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: October 22, 2026

Criminal Appeal from the Cleveland Municipal Court
Case No. 2024-CRB-006842

Appearances:

Mark Griffin, Cleveland Director of Law, and Brittany C.
Barnes, Assistant Prosecutor, *for appellee*.

John H. Lawson, *for appellant*.

EMANUELLA D. GROVES, P.J.:

{¶ 1} Defendant-appellant Siva Sai Krishna Guntupalli (“Guntupalli”) appeals his conviction for sexual imposition. He raises the following assignments of error for our review:

Assignment of Error No. 1

The City of Cleveland [prosecutor's office] ("prosecutor" or "prosecution") failed to present sufficient evidence to sustain a conviction.

Assignment of Error No. 2

[Guntupalli's] convictions are against the manifest weight of the evidence.

{¶ 2} Guntupalli's arguments are not well taken, and for the following reasons, we affirm his conviction.

I. Factual and Procedural History

{¶ 3} In August 2024, the prosecutor issued a complaint alleging that Guntupalli had committed the crime of sexual imposition, a misdemeanor of the third degree. The complaint specified that he violated former R.C. 2907.06(A)(1) when he had

sexual contact with another, not the spouse of the offender, while knowing that sexual contact was offensive to the other person or was reckless in that regard when he hugged juvenile victim (L.S. d.o.b. 12/12/2006) and kissed the side of her neck.[¹]

{¶ 4} A bench trial commenced in January 2026, and the following evidence relevant to this appeal was introduced.

{¶ 5} Cleveland Police Officer Cal Thomas ("Officer Thomas") testified that he and his partner were called to the area of a local restaurant because of an alleged sexual assault. When he and his partner arrived, they were approached by L.S.'s

¹ R.C. 2907.06(A)(1) was renumbered to R.C. 2907.06(A) after the date of the offense and removed language that is not relevant to this appeal.

friend. The officers then went to speak to L.S., her parents, the friend, Guntupalli, and the manager of the restaurant. They were also shown video footage from the restaurant depicting the incident.

{¶ 6} After speaking to Guntupalli, Officer Thomas testified that they learned L.S. entered the restaurant and Guntupalli thought she was attractive and asked for a hug. The prosecution introduced two excerpts from Officer Thomas's body camera video that depicted Guntupalli describing what happened. In the video, an officer asked Guntupalli where he is from and whether his actions held any cultural significance. Guntupalli responded by stating that in India, students greet each other with a hug. He denied kissing L.S.'s neck, stating, "[T]hat's not like a kiss," rather his lips touched her shoulder. In a demonstration of the hug, Guntupalli raised his arms to shoulder height, bent forward and made an audible smacking sound. He further indicated that he asked permission for the hug, asking, "[C]an I get a hug," and L.S. agreed to give him a hug. He did not know L.S.

{¶ 7} The prosecution then introduced a copy of the restaurant's surveillance video. In the video, L.S. and Guntupalli were the only people in the restaurant's dining room. There were no other customers, and additional staff, if any, were not in view of the camera. The video depicts L.S. at the drinks station, while Guntupalli walks from behind the counter to hand her the food she ordered. Guntupalli stands back while L.S. continues to get her drink, and the two appear to be talking. Guntupalli says something and opens his arms. They both step towards one another with arms open and exchange a hug. At the end, Guntupalli bobs his

head towards L.S.; it is unclear exactly what he does from the angle of the video. As he releases her, Guntupalli's hands rested briefly on her mid back near the ends of her hair and over her cropped t-shirt. The video is a little over a minute long and the hug is approximately five seconds long.

{¶ 8} Next, the prosecution called A.S., L.S.'s mother. A.S. testified that L.S. is the youngest of her three children and was 19 years old on the date of trial but was 16 or 17 when the incident occurred. On that date, A.S., L.S., and her friend were returning from the beach when they stopped to pick up food at a restaurant. A.S. waited in the car while L.S. went to get the food. When L.S. returned to the car, A.S. noticed a look on her face and believed that something had happened. L.S. told her that someone hugged her and put his mouth on her neck. She asked A.S. whether she had done something wrong. A.S. assured her that she had not done anything wrong and asked L.S. to tell her what happened.

{¶ 9} A.S. learned that a person brought L.S.'s food around the counter, which she felt was odd, and then he asked L.S. if he could hug her. L.S. did not know what to say and was scared to say no. A.S. further learned that L.S. was "kind of standing there so [Guntupalli] leaned in to hug her." A.S. testified that L.S. was shaken after the interaction and her voice was quivering, like she was about to cry. L.S. kept stating that she did not know if she did something wrong. She was holding back tears and trying to calm herself down.

{¶ 10} A.S. relayed that she was angry after she heard what happened and did not know what to do. She called her husband and ultimately, she decided to

contact the police. The prosecution then played Officer Thomas's body-camera footage depicting the officers' interaction with the family. In it, L.S. is seated in the front passenger's seat of A.S.'s car and is visibly upset. The video depicts Officer Thomas asking what happened and L.S. relaying that Guntupalli asked for her telephone number and she refused to give it to him. She then told the officers that Guntupalli got close but "not too close" and asked for a hug. She concluded that the "problem [was not] the hug, he kissed my neck and it freaked me out."

{¶ 11} A.S. further testified that since the incident, L.S. has avoided talking about what happened. She relayed that L.S. has severe anxiety and the incident was a source of great stress. A.S. explained that L.S. "shuts down" when things are difficult for her, and she has remained "shut down" about the incident since it happened. According to A.S., the trial had caused L.S.'s anxiety to resurface.

{¶ 12} Next, the prosecution called L.S., who testified that she, her mother, and friend had a great day at the beach and she was in "very good spirits." Afterward, she asked A.S. if they could go to one of her favorite restaurants to pick up food. When they arrived at the restaurant, her friend decided to go to a different restaurant and L.S. entered the restaurant by herself.

{¶ 13} L.S. testified that she entered the restaurant, placed her order, and waited for it to be ready. When it was ready, the man behind the counter, who she later identified as Guntupalli, walked from behind the counter to give it to her. After he gave her the food, he stood there smiling awkwardly and asked if he could ask her something. L.S. did not hear him the first time and asked him to repeat what he

said, and he asked her, “[M]ay I hug you?” L.S. indicated that she agreed to the hug because the restaurant was empty and there was no one passing on the street behind her. At the time, her anxiety was extremely high, and she was “mostly just nervous.” She described the hug, stating that “he came in and gave me a really like intimate hug, like — more like — really like over bearing bear-hug.” When asked what she meant, L.S. described the hug as “[o]ne you would give to like your mom, when you haven’t seen her in a while.” Afterward, she “awkwardly” said “bye” and walked out of the restaurant.

{¶ 14} When asked how the hug made her feel, L.S. described being shocked at first, and later described feeling

kind of like violated. It’s just his mouth was really close to my neck. I could feel hot breath on there. It felt like my whole body was kind of like — like encapsulated in arms, just like — like — like completely over my back and around my lower back. . . .

{¶ 15} On cross-examination, L.S. recalled that she took a step towards Guntupalli when giving him the hug. After she was given an opportunity to refresh her recollection, L.S. recalled that she told the police that Guntupalli asked for her telephone number. She also recalled that she declined to provide her telephone number to Guntupalli. She acknowledged Guntupalli did not follow her from the restaurant, did not ask her for her number a second time, and never asked her how old she was.

{¶ 16} On redirect, L.S. agreed that when Guntupalli asked to hug her, she felt completely alone and did not think she had any other options. She also relayed that Guntupalli was a complete stranger to her.

{¶ 17} Finally, the prosecution called Cleveland Police Detective Briana Reid (“Detective Reid”) with the sex-crimes and child-abuse unit. Detective Reid reviewed the case report and body-camera footage, secured the video footage from the restaurant, and contacted A.S. to set up an interview with L.S., which was conducted by a forensic interviewer while Detective Reid observed. She also personally conducted an interview with Guntupalli. The prosecution introduced the video of Guntupalli’s interview into evidence and played it in open court. In the interview, Guntupalli described the incident by saying he was at his friend’s restaurant one day, when he saw a girl, who he described as “nice.” He asked the girl for a hug and received one. Then, Guntupalli gave a fuller description of what happened, telling Detective Reid that L.S. came into the restaurant and purchased some food. He told her that she was “cute,” she thanked him, and he asked her for a hug. He repeated that he asked for permission, and she gave him permission for the hug. When asked where his hands were, Guntupalli raised his arms to shoulder height in a hugging motion, and stated his hands touched her back. Guntupalli told Detective Reid that he thought his mouth touched L.S.’s shoulder. He initially denied asking her for her telephone number but then indicated that he did not remember. When asked directly if he kissed L.S., Guntupalli denied it, and said that his lips touched her shoulder, “not intentionally.” Guntupalli denied usually asking

for hugs at the restaurant, but claimed he asked this time because she was “cute.” He did not learn that she was a minor until her parents came into the restaurant. He apologized to them because he did not know she was a minor.

{¶ 18} Finally, Guntupalli asked Detective Reid if he could apologize to L.S. Based on her training and experience, Detective Reid interpreted his apology as an acceptance of guilt.

{¶ 19} On cross-examination, the defense reviewed Detective Reid’s testimony on direct. Detective Reid acknowledged that when she asked Guntupalli if his mouth touched L.S.’s neck, he told her no.

{¶ 20} The prosecution then rested and admitted the body-camera footage, the restaurant surveillance video, and Guntupalli’s video interview. The defense moved for dismissal pursuant to Crim.R. 29, arguing that there was not any evidence that (1) Guntupalli touched any of L.S.’s erogenous zones, (2) the contact with L.S.’s shoulder amounted to contact with an erogenous zone; and (3) any purported contact was offensive to L.S., or that Guntupalli was reckless in that regard. The prosecution objected, and the trial court denied the motion. The defense then rested. After closing arguments, the trial court took the case under advisement.

{¶ 21} The trial court subsequently issued a written opinion and found Guntupalli guilty as charged. The trial court imposed a sentence of three days in jail, sex-offender treatment, and 100 hours of community-work service. Guntupalli was also required to register as a Tier I sex offender.

{¶ 22} Guntupalli appeals this decision.

II. Law and Analysis

{¶ 23} In the first assignment of error, Guntupalli argues that his conviction is not supported by sufficient evidence. He claims that the record does not support a finding that the prosecution presented any evidence to support a conviction for the crime of sexual imposition. Guntupalli alleges that the record does not establish that any contact occurred. However, if there was contact “expressed or received by [L.S.],” the brief encounter between them could not be perceived by Guntupalli as offensive because it was within the permission he requested and was granted.

{¶ 24} A challenge to the sufficiency of the evidence supporting a conviction requires a reviewing court to determine whether the prosecution has met its burden of production at trial. *State v. Thompkins*, 78 Ohio St.3d 380, 390 (1997). When reviewing a sufficiency challenge, the reviewing court “examine[s] 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. Jenks*, 61 Ohio St.3d 259 (1991), 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.” *Id.*

{¶ 25} In order to establish a violation of sexual imposition under former R.C. 2907.06(A)(1), the prosecution must present evidence that Guntupalli had sexual contact with L.S., who was not his spouse, when he knew that the sexual

contact was offensive to L.S., or was reckless in that regard.² “Sexual contact” is defined 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.” R.C. 2907.01(B).

{¶ 26} The term “erogenous zone” is not defined in the code beyond the areas listed in the statute. The parts listed in R.C. 2907.01(B) are per se erogenous zones, and the prosecution need not prove that they are erogenous zones. *State v. Ford*, 2021-Ohio-4608, ¶ 18 (8th Dist.), citing *State v. Kleyman*, 2008-Ohio-6656, ¶ 26. For parts of the body that are not traditionally seen as erogenous zones and are not listed in R.C. 2907.01(B), an erogenous zone is “any part of the body of another, which the mind of the offender or victim or a reasonable person would perceive as sexually arousing or gratifying to either the offender or the victim.” *Id.*, quoting *id.* at ¶ 27. Courts have noted that the words “including without limitation” signal that the list is “non-exhaustive.” *State v. Solomon*, 2021-Ohio-940, ¶ 47 (8th Dist.) (finding that the fact that toes and feet are not listed in R.C. 2907.01(B) does not preclude their inclusion as erogenous zones).

{¶ 27} Additionally, the code does not define “sexually arousing or gratifying.” This court has noted that “[s]exual arousal or gratification includes any

² Former R.C. 2907.06(A)(1) was also violated where the offender caused another person to have sexual contact with the offender, or caused two or more people to have sexual contact, when it is offensive to the other person, or one of the other persons, or the offender is reckless in that regard. However, the prosecution’s complaint limited the offense to when the offender had sexual contact with the victim.

touching ‘which a reasonable person would perceive as sexually stimulating or gratifying.’” *State v. Maybury*, 1994 Ohio App. LEXIS 3497 at *8 (8th Dist. Aug. 11, 1994), quoting *State v. Astley*, 36 Ohio App.3d 247, 250 (10th Dist. 1987). “Whether the touching or contact was performed for the purpose of sexual arousal or gratification is a question of fact to be inferred from the type, nature, and circumstances of the contact.” *State v. Solomon*, 2021-Ohio-940, ¶ 48 (8th Dist.).

{¶ 28} Furthermore, “[t]he [prosecution is] not required to present direct evidence proving the element of sexual arousal or gratification.” *Id.*, citing *State v. Kalka*, 2018-Ohio-5030, ¶ 31 (8th District). The jury, or in this case, the trier of fact, “may infer that a defendant was motivated by a desire for sexual arousal or gratification from the totality of the circumstances.” *Id.*, quoting *State v. Edwards*, 2003-Ohio-998, ¶ 22 (8th Dist.), citing *State v. Oddi*, 2002-Ohio-5926 (5th Dist.).

{¶ 29} Although the neck or shoulder are not listed as erogenous zones, the specific facts of the case may establish circumstances where an offender touched either area for the purpose of sexual arousal or gratification.

{¶ 30} We now analyze the evidence, reviewing it in a light most favorable to the prosecution. The primary question is whether Guntupalli made sexual contact with L.S. when he hugged her and “kissed” her neck or shoulder.

{¶ 31} While it is clear that there was a brief conversation between Guntupalli and L.S., that Guntupalli asked if he could have a hug, and L.S. agreed to the hug, L.S. did not intend to consent to the type of embrace she received and it went beyond her expectations for a hug between strangers. She described it as

“intimate,” that she felt she was “encapsulated” in arms, and she felt violated. Guntupalli argues that because L.S. described the hug as being motherly, L.S. did not perceive it as sexual. We disagree. L.S. described a hug that was too intimate between strangers and the kiss took it beyond a mere parental hug. Furthermore, whether L.S. perceived the hug and kiss as sexually arousing or gratifying is not the only question. The trial court also had to consider whether Guntupalli perceived them as sexually arousing or gratifying.

{¶ 32} Looking at the evidence in a light most favorable to the prosecution, we find that a reasonable trier of fact, looking at the totality of the circumstances, could find that Guntupalli made sexual contact with L.S. for the purpose of sexually arousing or gratifying himself. He was clearly attracted to L.S., telling her she was cute. He asked for her phone number, establishing a personal interest in her. Rather than hand her the food from behind the counter, he walked around the counter in order to be closer to her. Then he requested a hug at a time when the dining room was empty of customers or other staff. He then overstepped and embraced L.S. in a bear hug and placed a kiss on her neck or shoulder, again expressing his attraction and interest in her, despite the fact that L.S. had declined to give him her number.

{¶ 33} Accordingly, we overrule the first assignment of error.

{¶ 34} Next, we address Guntupalli’s second assignment of error, which challenges his conviction as against the manifest weight of the evidence. In contrast to a sufficiency analysis, “weight of the evidence involves the inclination of the greater amount of credible evidence.” *State v. Harris*, 2021-Ohio-856, ¶ 32 (8th

Dist.), quoting *Thompkins*, 78 Ohio St.3d at 387. Weight of the evidence relates to “the evidence’s effect of inducing belief.” *Id.*, quoting *State v. Wilson*, 2007-Ohio-2202, ¶ 25, citing *Thompkins* at 386-387. This court must consider all of the evidence in the record, the reasonable inferences to make from it, and the credibility of the witnesses to determine “whether in resolving conflicts in the evidence, the factfinder clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.” *Id.*, citing *Thompkins* at 387, quoting *State v. Martin*, 20 Ohio App.3d 172 (1st Dist. 1983). Additionally, the Ohio Supreme Court recently noted that

appellate courts reviewing a manifest-weight challenge must still give some deference to a fact-finder’s credibility determinations. An appellate court sits 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.) *State v. Reillo*, 2026-Ohio-2701, ¶ 3.

{¶ 35} Finally, this was a bench trial where the trial court is presumed to have only considered relevant, material, and competent evidence. *State v. Watson*, 2020-Ohio-3462, ¶ 38 (8th Dist.); *State v. Lott*, 51 Ohio St.3d 160, 166-167 (1990) (the trial court is presumed to have considered only the relevant, material, and competent evidence in arriving at its judgment unless it affirmatively appears to the contrary).

{¶ 36} In his brief, Guntupalli compares his analysis of the evidence to the trial court's and finds the trial court's conclusions lacking.³ The fact that he disagrees with the trial court's conclusions regarding the testimony and evidence does not mean that the conviction is against the manifest weight of the evidence. Here, he alleges that L.S. does not look awkward, nervous, or like she was suffering from high anxiety in the restaurant surveillance video. The video was accompanied by L.S.'s testimony, and the trial court was in the best position to evaluate her demeanor. The trial court believed her when she testified that she was anxious, nervous, and having high anxiety. Guntupalli's disagreement with that analysis does not mean that the conviction was against the manifest weight of the evidence.

{¶ 37} He also alleges that the fact that L.S. equated the hug to one a person might receive from their mother precludes the conclusion that it was sexual. However, L.S. testified that the hug was "intimate" and that she felt completely enveloped in arms. Guntupalli was a complete stranger administering a hug that one would only expect from a close family member. Add to that the kiss at the end, whether it was his lips brushing her shoulder, which Guntupalli admitted to, or his lips brushing or so close to her neck that she could feel his "hot breath," the court

³ We are mindful that in the sentencing entry, the trial court found that "[L.S.] testified that [Guntupalli] gave her an intimate hug, placed his hands on her lower back, and pressed his lips on her shoulder and near her neck. She testified that she felt his lips on her and stated that she was in shock and felt violated." L.S. did not testify that he placed his hands on her lower back or that he pressed his lips on her shoulder and near her neck, nor did she testify that she felt his lips on her. However, under the manifest-weight review, an appellate court evaluates the *evidence in the record* to determine whether the conviction is supported by the weight of the evidence. *Harris*, 2021-Ohio-856, ¶ 32 (8th Dist.).

found that it was too intimate from a stranger and had no relevant purpose other than sexual arousal or gratification. Finally, the incident occurred when L.S. and Guntupalli were alone in the restaurant, so one could conclude, and the trial court did conclude, that Guntupalli took advantage of the situation to persuade L.S. into the hug, and further took advantage by kissing her.

{¶ 38} Because the trial court is entitled to a presumption that it only considered relevant, material, and competent evidence, Guntupalli's argument challenging the trial court's conclusions about that evidence do not establish that his conviction is against the manifest weight of the evidence. Furthermore, Guntupalli has not pointed to evidence that negates this court's obligation to give deference to the trial court's conclusions unless "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." *Reillo*, 2026-Ohio-2701 at ¶ 3.

{¶ 39} Accordingly, the second assignment of error is overruled.

{¶ 40} 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 municipal 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.

EMANUELLA D. GROVES, PRESIDING JUDGE

MARY J. BOYLE, J., and
KATHLEEN ANN KEOUGH, J., CONCUR