

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-060841
		C-060893
Plaintiff-Appellee,	:	TRIAL NO. C-06CRB-8833
vs.	:	<i>JUDGMENT ENTRY.</i>
RICKY MULLINS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant, Ricky Mullins, appeals a conviction for sexual imposition under R.C. 2907.06. We find no merit in his two assignments of error, and we affirm the trial court’s judgment.

The record shows that 16-year-old Jordanne Walters was at a Wal-Mart store with her aunt, Vickie Chase. As Walters was standing in front of a CD stand, Mullins came up behind her and caressed her buttocks with his hand for three to five seconds. The touch caused her to lose her balance and fall against the CD stand. Walters looked up at Mullins, who looked her in the eye and “smirked.”

Chase was standing several feet away from Walters when she saw Mullins rub his hand on her buttocks. She then saw Mullins give Walters a “hey, baby, sort of look.” When Chase saw that Walters was upset, she confronted Mullins and started yelling at

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

him not to touch Walters like that again. According to Chase, Mullins tried to “deny it” and “play dumb.” Mullins then walked away, and Chase asked the store personnel to call the police.

Mullins admitted that his hand had come into contact with Walters’s buttocks, but contended that the contact was an accident. He stated that after he received the receipt for his purchase, he decided to “to go back and get a movie.” He testified, “So I’m reading the receipt as I’m walking back to where I think the movies are. You know, walking back there paying attention with the receipt. And it was a little bit, you know, faded and stuff. So I just reached my hand up to steady it as I’m walking.”

In his first assignment of error, Mullins contends that the evidence was insufficient to support his conviction. He argues that the state failed to prove that the touching was done for sexual gratification or arousal. This assignment of error is not well taken.

R.C. 2907.06(A)(1) provides that “[n]o person shall have sexual contact with another, not the spouse of the offender \* \* \* when \* \* \* [t]he offender knows that the sexual contact is offensive to the other person \* \* \* or is reckless in that regard.” Sexual contact means “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.”<sup>2</sup>

The Ohio Revised Code does not define sexual arousal or gratification. But the statutes contemplate any touching of the specified areas that a reasonable person would perceive as sexually stimulating or gratifying.<sup>3</sup> Whether a touching is for the purpose of sexual gratification or arousal “is a question of fact to be inferred from the type, nature,

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<sup>2</sup> R.C. 2907.01(B).

<sup>3</sup> *State v. Mack*, 1st Dist. No. C-050968, 2006-Ohio-6284.

and circumstances surrounding the contact.”<sup>4</sup> While touching by itself is not sufficient for a conviction, the act of touching may constitute strong evidence of intent.<sup>5</sup>

Walters testified that she felt Mullins’s open hand, palm up, on her buttocks for three to five seconds. She considered the touch to be a “sexual touch,” and she was upset afterwards because “a grown man [had] just touched [her] in an inappropriate way.” The touch was forceful enough to cause her to fall against the CD stand. Chase testified that she saw Mullins rub his hand on Walters’s buttocks, and she reacted by chasing after him and yelling. They both testified that he had looked at Walters in a sexual manner after he had touched her.

This evidence supported the inference that Mullins had touched Walters for the purpose of sexual arousal and gratification. The trier of fact believed the state’s evidence over Mullins’s testimony that the touch was accidental. Matters as to the credibility of evidence are for the trier of fact to decide.<sup>6</sup>

We hold that a rational trier of fact, after viewing the evidence in a light most favorable to the prosecution, could have found that the state had proved all the elements of sexual imposition, including sexual contact, beyond a reasonable doubt. Therefore, the evidence was sufficient to support the conviction.<sup>7</sup> We overrule Mullins’s first assignment of error.

In his second assignment of error, Mullins contends that his conviction was against the manifest weight of the evidence. After reviewing the evidence, we cannot hold that the trier of fact lost its way and created such a manifest miscarriage of justice that we must reverse Mullins’s conviction and order a new trial. Therefore, the conviction was not

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<sup>4</sup> Id., quoting *State v. Daniels*, 1st Dist. No. C-020321, 2003-Ohio-1545.

<sup>5</sup> Id.

<sup>6</sup> *State v. Bryan*, 101 Ohio St.3d 272, 2004-Ohio-971, 804 N.E.2d 433; *Mack*, supra.

<sup>7</sup> *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492; *Mack*, supra.

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against the manifest weight of the evidence.<sup>8</sup> We overrule Mullins's second assignment of error and affirm the conviction.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

**PAINTER, P.J., CUNNINGHAM and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on December 19, 2007  
per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>8</sup> *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541; *State v. Allen* (1990), 69 Ohio App.3d 366, 590 N.E.2d 1272; *Mack*, supra.