

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

STATE OF OHIO,	:	APPEAL NOS. C-130324
	:	C-130325
Plaintiff-Appellee,	:	TRIAL NOS. 13CRB-10333
	:	13CRB-7456
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
RONNIE CRADDOCK,	:	
	:	
Defendant-Appellant.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

These are criminal appeals from two convictions for public indecency. The defendant, Ronnie Craddock, was caught masturbating during a math class at Cincinnati State Technical and Community College on March 25 and March 27, 2013. Mr. Craddock had attempted to block himself from the view of other students by pulling a chair to his left, placing his book bag on it, and draping his coat over it. He did not, however, conceal his conduct from Jennifer, who was seated directly to his right and saw Mr. Craddock masturbate for nearly an hour on the 25th. The defense implied at trial that Mr. Craddock and Jennifer had engaged in a prior flirtation, as indicated by numerous telephone calls and text messages sent between them that semester. Jennifer denied the existence of a romantic relationship with Mr. Craddock and testified that their out-of-class contact had ended after she told Mr. Craddock that she was not interested in such a relationship.

Following the March 25 class, Jennifer notified the professor and campus police about Mr. Craddock's conduct, but the authorities opted not to take action until the professor verified the allegation. During class on March 27, Mr. Craddock resumed his shenanigans. Jennifer alerted the professor by text message, and the professor maneuvered around the classroom until she, too, saw Mr. Craddock's exposed penis. The professor notified campus police, who responded to the classroom and arrested Mr. Craddock.

While Jennifer and the professor both attested to having seen Mr. Craddock masturbating, two students seated in front of Mr. Craddock testified that they did not see the alleged conduct on either date. One of those students, Shequila, explained that she had been turned around talking to Mr. Craddock for ten minutes about a half-hour to an hour into class on the 25th. Jennifer stated that the misconduct began approximately an hour into the 110-minute class. A jury convicted Mr. Craddock on both counts, and he now appeals, raising four assignments of error.

First, Mr. Craddock asserts that the trial court erred by admitting evidence of incriminating statements he made to a campus police officer, which were not disclosed before trial as required by Crim.R. 16(B). The trial court denied a defense request for the statements to be excluded from the officer's testimony, but it granted a continuance to allow the defense to prepare its cross-examination of the officer. In determining whether a trial court's decision to admit evidence not timely disclosed by the state amounts to reversible error, a court should consider whether the violation was willful, whether foreknowledge of the requested discovery would have benefited the defendant, and whether the defendant suffered prejudice. *State v. Parson*, 6 Ohio St.3d 442, 453 N.E.2d 689 (1983), syllabus. The prosecutor notified the defense immediately upon learning of the statements' existence, and there is no indication that the violation was the result of willful misconduct. Mr. Craddock would not have benefitted from the ability to file a motion to suppress because the

officer's statements notifying Mr. Craddock of the charges did not rise to the level of an interrogation and, therefore, did not require *Miranda* warnings. Finally, Mr. Craddock was not prejudiced because there was other substantial evidence of guilt, namely the testimony of two people who witnessed his conduct. The trial court did not abuse its discretion by permitting the officer to testify about the statements. The first assignment of error is overruled.

In his second and third assignments of error, Mr. Craddock challenges the trial court's denial of his Crim.R. 29 motion for acquittal and the sufficiency of the evidence presented below. Because "[a] claim that the trial court erred in denying a motion for acquittal triggers a standard of review identical to that which applies to a sufficiency claim," we consider these arguments together. *See State v. Williams*, 74 Ohio St.3d 569, 576, 660 N.E.2d 724 (1996). Mr. Craddock contends that the evidence was insufficient to show that he acted "recklessly," which means that "with heedless indifference to the consequences, he perversely disregard[ed] a known risk[.]" R.C. 2901.22(C). Because he attempted to conceal his conduct, he argues that he did not "perversely disregard" the risk that his activity would be seen by others. We disagree. Mr. Craddock masturbated in a classroom full of people. Merely blocking himself with a book bag does not negate his disregard for the likelihood that someone would see and be offended by his conduct. Moreover, he made no efforts to conceal his actions from Jennifer, and the record indicates she was likely to be affronted, as she had previously turned down his romantic overtures. The jury could have found the essential elements proven beyond a reasonable doubt. *See State v. Jenks*, 61 Ohio St.3d 259, 514 N.E.2d 492 (1991), paragraph two of the syllabus. We find the conviction to be supported by sufficient evidence and overrule the second and third assignments of error.

Finally, Mr. Craddock contends that his convictions were against the manifest weight of the evidence. Mr. Craddock points to the testimony of the two students

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who did not see the masturbation. The students were seated in front of Mr. Craddock, so their testimony that they did not see the conduct does not necessarily conflict with Jennifer's account, since she was in a better position to see his behavior. Moreover, the reported timing of the events on the 25th indicates that Mr. Craddock's masturbation could have begun well after his conversation with Shequila had ended. And even if we were to view the testimony as conflicting, the jury was entitled to weigh the witnesses' credibility and conclude that Jennifer and the professor were more believable. We, therefore, find that Mr. Craddock's convictions were not against the manifest weight of the evidence. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). We overrule the fourth assignment of error, and affirm the judgment below.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., DINKELACKER and DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on March 7, 2014

per order of the court _____.
Presiding Judge