

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

STATE OF OHIO,	:	APPEAL NO. C-130526
	:	TRIAL NO. B-1302771
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
ROBERT DUDLEY,	:	
Defendant-Appellant.	:	

We consider this appeal 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.

Defendant-appellant Robert Dudley appeals from the judgment of the Hamilton County Court of Common Pleas convicting him of kidnapping, in violation of R.C. 2905.01(A)(3). We affirm.

On December 16, 2012, Clayton Collins went to Dudley’s barbershop to propose that Dudley, also known as the music producer PKutta, hire him to promote Dudley’s record label for a music tour with Def Jam. Dudley gave Collins money and personal information in furtherance of that business relationship, but soon after he gained information that led him to believe that Collins was “scamming” him and the artists on his label, including Brittany Croley. Dudley told Croley that he was going to expose Collins and beat him up at a follow-up meeting that had been scheduled for December 18.

At the December 18 meeting, Collins’s pitch to Dudley and Croley was interrupted when Dudley attacked Collins. Dudley had Croley lock the door to the barbershop while

he held Collins on the floor in a chokehold and violently berated him for “play[ing]” him. As Collins, gasping for air, denied the accusations, Dudley beat him about his face and told him that his life was in “jeopardy” and that he was about “to die.” When Dudley released Collins so that Collins could “empty his pockets,” Dudley stood over Collins and threatened to “stomp him into hospital jello” if he moved. After terrorizing Collins for over ten minutes, Dudley ordered Collins to leave.

At Dudley’s request, Croley had recorded the attack on her cellular phone. Dudley posted on his Facebook page a part of the video depicting Collins trembling.

After the attack, Collins called 911 from a neighboring business and claimed that PKutta and “a female” had assaulted him. But he later told the police and hospital staff that other individuals had robbed and assaulted him. The hospital records indicated that his face was bruised and swollen, and that both of his eyes were swollen shut.

At trial, Collins claimed that he could not remember what had happened. But the videos of the attack were shown at trial and admitted as evidence. And Croley, who had also been charged with offenses relating to the December 18 incident, testified for the state that she had witnessed the events depicted on the videos and that Collins had been “scared” during the attack. Dudley testified in his own defense and contended that he had only intended to humiliate Collins and to keep him in the barbershop so that he could take the video for purposes of exposing him to others.

The trial court found Dudley guilty of kidnapping for the purpose of terrorizing, but not guilty of several other offenses, including abduction, that the state had charged him with in a separate indictment. Dudley filed this appeal after he unsuccessfully moved the court to reconsider the finding of guilt on the basis that the court’s findings were inconsistent.

In his sole assignment of error, Dudley argues that his conviction was not supported by sufficient evidence and was against the manifest weight of the evidence.

Dudley maintains that his conviction for kidnapping cannot stand because the trial court acquitted him of the lesser included offense of abduction. But we reject his argument because the trial judge's inconsistent findings on the separate counts does not mean that his conviction must be reversed. *See, e.g., State v. Lovejoy*, 79 Ohio St.3d 440, 683 N.E.2d 1112 (1997), paragraph one of the syllabus; *State v. Hicks*, 43 Ohio St.3d 72, 78, 538 N.E.2d 1030 (1989); *State v. Henderson*, 1st Dist. Hamilton No. C-130541, 2014-Ohio-3829, ¶ 24-25; *State v. Pies*, 1st Dist. Hamilton Nos. C-990241 and C-990242, 1999 Ohio App. LEXIS 6031 (Dec. 17, 1999). To reverse, we must conclude that the conviction was based on insufficient evidence or against the manifest weight of the evidence.

As relevant to this case, to convict Dudley of kidnapping in violation of R.C. 2905.01(A)(3), the trial court had to find, beyond a reasonable doubt, that Dudley, “by force [or] threat” had “restrained [Collins’s] liberty,” with “the purpose of terrorizing him.” To restrain the liberty of a person means to limit one’s freedom of movement for any period of time, *see State v. Mosley*, 178 Ohio App.3d 631, 2008-Ohio-5483, 899 N.E.2d 1021, ¶ 20 (8th Dist.), including compelling the victim to stay where he is to place him in the offender’s power and beyond immediate help, even if temporarily. *Id.* A person acts purposely when “it is his specific intent to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, and it is his specific intention to engage in conduct of that nature.” R.C. 2901.22(A). Moreover, “terrorize,” while not defined by statute, has been defined according to its common usage as “ ‘to fill with terror or anxiety.’ ” *State v. Leasure*, 6th Dist. Lucas No. L-02-1207, 2003-Ohio-3987, ¶ 47, citing Merriam Webster’s Collegiate Dictionary 1217 (10th Ed.1996).

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We conclude that, after viewing the evidence adduced at trial in the light most favorable to the state, any rational trier of fact could have found the essential elements of the offense proven beyond a reasonable doubt. *See State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus, following *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). And, we cannot say that the trial court lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Thus, we reject Dudley's challenge to the sufficiency and manifest weight of the evidence. Accordingly, we overrule the assignment of error.

Therefore, we affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

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

To the clerk:

Enter upon the journal of the court on December 5, 2014
per order of the court _____
Presiding Judge