

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

STATE OF OHIO,	:	APPEAL NO. C-150723
Plaintiff-Appellee,	:	TRIAL NO. 15CRB-24762
vs.	:	<i>JUDGMENT ENTRY.</i>
BRIAN JOHNSON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Brian Johnson appeals his conviction for sexual imposition following a bench trial.

In a single assignment of error, Johnson argues his conviction is not supported by sufficient evidence. He contends the state failed to show he had sexual contact with the victim because the victim’s waist was not an “erogenous zone” and there was no evidence that he had touched the victim for the purpose of sexual gratification or arousal. He also argues the state failed to introduce evidence to corroborate the victim’s testimony. We respectfully disagree.

The victim, an international student whose second language is English, testified that as she had been walking up the stairs from the campus cafeteria,

Johnson had grabbed her for four to five seconds from behind, placing his hands between her kidneys and in the middle of her lower waist at the waistband of her shorts. The victim immediately turned around to see who had touched her and to ask “what was happening.” Johnson said something and moved his hands. Johnson and his friend then passed between the victim and her friend and waited for them at the top of the stairs. When the victim and her friend reached the top of the stairs, Johnson and his friend followed the two women across campus, laughing and trying to engage them in conversation by asking them for a lighter and cigarettes.

The victim, who had never seen Johnson or his friend before, told the men they did not have a lighter or cigarettes and asked the two men to leave them alone. She and her friend then began walking in a different direction. Johnson and his friend appeared to walk away from the women, but they reappeared several minutes later behind the victim and her friend as the two women were standing at a traffic light near their dormitory. The victim testified that Johnson was standing very closely behind her and he was staring at her “behind.” Frightened, the victim and her friend ran toward a patrol car near their dormitory. They spoke with a campus police officer about their contact with Johnson and his friend.

Another campus police officer interviewed Johnson and his friend shortly thereafter. Johnson denied touching the victim. He told the interviewing officer that the victim and her friend had been wearing “daisy dukes,” i.e. short shorts, and that they had been bending over and shaking their “behinds” at him so he could “catch a charge.”

Contrary to Johnson’s assertions, the state’s evidence supports the inference that he had “sexual contact” with the victim. Johnson grabbed the victim around her

lower waist causing her to immediately turn around to see who had touched her and to ask what was happening. Johnson then followed the victim across campus to her dormitory, despite her requests that he leave her alone. At one point, he stood so close to the victim, staring at her “behind,” that he caused her to start running away from him. Johnson, moreover, told police that the victim had been wearing short shorts, bending over and shaking her “behind” at him so he could “catch a charge.” The trier of fact could infer from the totality of the circumstances that Johnson’s touching of the victim’s lower stomach had been motivated by a desire for sexual arousal or gratification. *See State v. Edwards*, 8th Dist. Cuyahoga No. 81351, 2003-Ohio-998, ¶ 21; *State v. Cobb*, 81 Ohio App.3d 179, 185, 610 N.E.2d 1009 (9th Dist.1991).

While R.C. 2907.01(B) does not expressly identify the stomach as an “erogenous zone,” Ohio appellate courts have held that other areas of the body, including the mouth and stomach, may be considered erogenous zones in certain circumstances. *See State v. Ball*, 4th Dist. Hocking No. 07CA2, 2008-Ohio-337, ¶ 26; *State v. Davis*, 2d Dist. Clark No. 1760 and 1769, 1983 Ohio App. LEXIS 13303, \*8-13 (May 3, 1983) (rejecting defendant’s argument that the rubbing of the victim’s stomach cannot be considered “sexual contact” within the meaning of R.C. 2907.01(B) because the stomach is not listed as an erogenous zone); *State v. Meisse*, 2d Dist. Clark No. 99 CA 74, 2000 Ohio App. LEXIS 3719, \*12-13 (Aug. 18, 2000) (following *Davis*). Here, the victim testified that Johnson had grabbed her lower waist, mere inches above her pubic region and inches away from her thighs. The state presented sufficient evidence that Johnson had touched the victim in an “erogenous zone.”

We, likewise, conclude that the state presented ample evidence to corroborate the victim's testimony. The victim's friend testified that she saw the victim turn around abruptly and say something like "What the f---." The victim's friend then turned and saw Johnson directly behind the victim with his hands up. The victim, who was visibly upset, had then stated that Johnson had grabbed her from behind. The victim's friend testified that Johnson and his friend had then followed them across campus and that she had been scared. A campus police officer testified that he had seen the victim and her friend walking on campus and that as he drove by them in his patrol car, the women had been joined by Johnson and another man, and that one of the women had looked upset. The victim and her friend had then immediately reported the incident with Johnson to campus police. *See State v. Economo*, 76 Ohio St.3d 56, 666 N.E.2d 225 (1996), syllabus (holding that "[t]he corroborating evidence necessary to satisfy R.C. 2907.06(B) need not be independently sufficient to convict the accused, and it need not go to every essential element of the crime charged. Slight circumstances or evidence that tends to support the victim's testimony is satisfactory corroborating evidence."); *State v. Haskell*, 3d Dist. Wyandot No. 16-15-03, 2015-Ohio-3095, ¶ 42-44 (holding that the state had presented sufficient corroborating evidence where the victim's friend had immediately reported the incident to police, the victim's father, friend, and a deputy had testified the victim had been upset following the incident, and the defendant had admitted to being in close proximity to the victim at the time of the incident); *see also State v. Ahmed*, 8th Dist. Cuyahoga No. 84220, 2005-Ohio-2999, ¶ 123-124 (holding the victim's excited statement after alleged incident was admissible as

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corroborating evidence). We, therefore, overrule Johnson's sole assignment of error and affirm the judgment of the trial court.

Further, 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.

**FISCHER, P.J., DEWINE and MOCK, JJ.**

To the clerk:

Enter upon the journal of the court on October 14, 2016  
per order of the court \_\_\_\_\_.  
Presiding Judge