

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

STATE OF OHIO,	:	
Appellee,	:	CASE NO. CA2022-08-078
- vs -	:	<u>OPINION</u>
	:	1/8/2024
DANNY L. GREENE AKA DANNY L. GREEN,	:	
Appellant.	:	

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CR2021-02-0142

Michael T. Gmoser, Butler County Prosecuting Attorney, and Michael Greer, Assistant Prosecuting Attorney, for appellee.

L. Patrick Mulligan & Associates, L.L.C., and L. Patrick Mulligan and Frank Matthew Batz, for appellant.

BYRNE, J.

{¶ 1} Danny Greene appeals from his convictions for multiple counts of rape and gross sexual imposition in the Butler County Court of Common Pleas. For the reasons detailed below, we affirm.

I. Factual and Procedural Background

{¶ 2} In February 2021, a Butler County grand jury indicted Greene on nine counts,

consisting of seven counts of gross sexual imposition and two counts of rape. The indictment arose from accusations made by Greene's three stepdaughters, whom we will refer to as M1, M2, and M3.

{¶ 3} The state alleged that M1, M2, and M3 were all under the age of 13 when the various offenses occurred. Except for count two, which took place in Indiana, the state alleged that all the offenses occurred at Greene's residence, located at 515 Pocono Court, Trenton, Ohio. As described below, the offenses occurred in bedrooms or while sitting in front of Greene's computer. All gross sexual imposition counts were charged as a violation of R.C. 2907.05(A)(4) and were third-degree felonies. According to the amended bill of particulars, the state charged the following conduct.

A. Counts Involving M1 (Occurring Between 2004 and 2012)

{¶ 4} Count One (gross sexual imposition) alleged that Greene, while at a computer, engaged in sexual contact with M1 by touching her vaginal area for the purpose of sexual arousal and/or gratification.

{¶ 5} Count Two (gross sexual imposition) alleged that Greene took M1 from Butler County to a location in Indiana where he engaged in sexual contact with her by rubbing his penis on her buttocks for the purposes of sexual arousal and/or gratification.

B. Counts Involving M2 (Occurring Between 2010 and 2015)

{¶ 6} Count Three (gross sexual imposition) alleged that Greene, while at a computer, engaged in sexual contact with M2 by touching her vaginal area for the purposes of sexual arousal and/or gratification.

{¶ 7} Count Four (gross sexual imposition) alleged that Greene, while at a computer, engaged in sexual contact with M2 by having M2 touch his penis and/or touching his penis to her for the purposes of sexual arousal and/or gratification.

{¶ 8} Count Five (gross sexual imposition) alleged that Greene, while on a bed,

engaged in sexual contact with M2 by touching her vaginal area, having her touch his penis and/or touching his penis to her, for the purpose of sexual arousal and/or gratification.

{¶ 9} Count Six (rape, a violation of R.C. 2907.02(A)(1)(b), and a first-degree felony) alleged that Greene penetrated M2's vagina with his fingers when M2 was less than 10 years of age.

C. Counts Involving M3 (Occurring Between 2011 and 2019)

{¶ 10} Count Seven (gross sexual imposition) alleged that Greene, while on a bed, engaged in sexual contact with M3 by touching her vaginal area for the purpose of sexual arousal and/or gratification.

{¶ 11} Count Eight (gross sexual imposition) alleged that Greene, while in the master bedroom, engaged in sexual contact with M3 by touching her vaginal area, having her touch his penis and/or touching his penis to her, for the purposes of sexual arousal and/or gratification.

{¶ 12} Count Nine (rape, a violation of R.C. 2907.02(A)(1)(b), and a first-degree felony) alleged that Greene, while in a "green room," penetrated M3's vagina with his finger(s).

D. The Trial

{¶ 13} The matter proceeded to a multiple-day jury trial. We summarize the key testimony relevant to this appeal below.

1. State's Case

a. M1's Testimony

{¶ 14} M1 testified that she was 22 years old at the time of trial and was born in 1999. She was the oldest of her siblings. Those siblings included her younger sisters M2 and M3. M1 testified that Greene was her step grandfather, and was married to Tammy, her maternal grandmother.

{¶ 15} As she was growing up, M1 saw Greene frequently at his home on Pocono Court. M1 described herself as "pretty close" to Greene, whom she called "Papaw." She would always go over there to "hang out." He would spend time with her and play "Just Dance"—a videogame.

{¶ 16} M1 relayed an incident that occurred when she was in the 7th grade and would have been 11 years old. Greene was sitting in front of his computer, and M1 was on his lap. Suddenly, he turned on what she now recognized as "Pornhub" (a pornography website). Greene played her "anime" pornography which is a type of cartoon pornography. M1 recalled that suddenly she was sitting backwards, facing Greene, straddling him, and he was "kissing me and fingering me." By "fingering," she meant that his two fingers were touching her vagina. His fingers were under her shorts, but over top of her underwear.

{¶ 17} M1 recalled another incident that happened at a trailer in Indiana, where they would go on the weekends. Greene would drive them over to the trailer. One night, she was in bed with Greene and Tammy.¹ Greene pulled down M1's underwear and shoved and nudged his penis against her buttocks, "in the middle, towards the top" of the buttocks where there's "like, a little hole almost." M1 testified that she was 10 or 11 years old when this incident happened.

{¶ 18} M1 testified that Greene no longer touched her after she began menstruating in middle school. In 2020, M1 testified that she was driving with M2. She decided to ask her sister if "Papaw" had ever touched her. M2 immediately said no. M2's response was so abrupt that M1 "knew something was wrong." M1 asked again, and M2 then disclosed that something had happened to her. M2 then asked M1 if something had happened between M1 and "Papaw." M1 said yes, and "they left it at that." They then spoke to M3

¹ There was testimony that the sisters commonly shared beds with their grandparents due to being afraid of the dark.

about what she had experienced.

{¶ 19} On cross-examination, defense counsel asked M1 about a statement she made during a 2012 interview at the Mayerson Center for Safe and Healthy Children.² Counsel asked M1 if she recalled making a statement that no one had ever touched her inappropriately. M1 could not recall making that statement. Defense counsel then had M1 read from a transcript of the interview. After reading the transcript, M1 stated that she could not recall making the statement. She subsequently appeared to concede that she made the statement. Defense counsel attempted to introduce that transcript into evidence. The state objected and the court did not permit admission of the transcript.

b. M2's Testimony

{¶ 20} M2 testified that she was born in 2005 and was 17 years old at the time of trial. Like M1, she called Greene "Papaw." She stated that Greene was "like my best friend." She recalled them playing Nintendo Wii and "Think Fast." They would play pool in the basement. They would just "hang out." M2 stated that she was at 515 Pocono Court almost every day. Some days she would go by herself. On the weekends she would spend the night.

{¶ 21} M2 recalled multiple incidents involving Greene which all occurred at 515 Pocono Court. Testifying about the incidents generally, M2 explained that Greene would place her on his lap facing his computer and would plug in headphones and put them on her. He would then play pornography. Sometimes the pornography was real people and sometimes it was "anime," which she described as "Japanese" "cartoon people." Then, while she was still facing the computer, he would put his hand over her thigh. Using his hand, he would rip her underwear and "go on my skin" and start rubbing her vagina.

2. The record indicates that the three sisters were interviewed at the Mayerson Center concerning an allegation by M3 about an unrelated individual.

{¶ 22} The first specific incident she recalled was when she was five or six years old. Greene had called her to his computer. He was looking at cars because she really liked cars. She sat on his lap. He told her, "I'm going to show you this new Disney game." He then turned on pornography. He then he put his hand over her thigh, and then under her clothing, and started rubbing her vagina with his hand.

{¶ 23} M2 testified that on another occasion, she recalled playing a Disney game or looking at cars while sitting on Greene's lap. Greene then turned on pornography. Then he put on the headphones and reached under her clothing and began rubbing her vagina.

{¶ 24} In another incident, when she believed she was six or seven years old, she was sitting on Greene's lap when he pulled his pants down "just a little bit" and rubbed his penis on her vagina. One time after he was done, she felt wet sticky stuff on her thighs, which he told her to wash off.

{¶ 25} Another incident happened at night. She could not sleep, so she went into the master bedroom and got into bed with Greene and Tammy. She was lying next to Greene when he used his hands to touch her vagina. Then he started touching her vagina with his penis.

{¶ 26} M2 testified that the "worst time" happened at the computer. Greene turned on pornography then started rubbing M2's vagina with his hand. However, this time he pushed too hard and she said, "ow." He touched inside of her vagina. She was seven or eight years old at the time.

{¶ 27} M2 testified that she began menstruating at the age of nine. Greene stopped touching her afterwards.

{¶ 28} On cross-examination, M2 stated that while touching her, Greene used his right hand to touch her and his left hand to masturbate himself. M2 also confirmed that in 2012, when she was interviewed at the Mayerson Center, she told the interviewer that she

felt safe.

c. M3's Testimony

{¶ 29} M3 testified that she was born in 2006 and was 15 years old at the time of trial. M3 testified that Greene had done things to her that made her feel unsafe. The first incident occurred when she was five or six years old. She was lying next to M2 in the guest bedroom, which they called the "green bedroom." Greene would begin by offering to "scratch our backs" and would start with the top of their back and then "make his way down." He would then rub her vagina in circular motions. It was skin on skin contact, which he was able to do by removing her underwear. When she was 11 or 12, he would engage in the same behavior. But this time he would penetrate her vagina with his fingers, using one or two fingers.

{¶ 30} M3 testified that these incidents occurred from the time she was five or six years old until she was 12 or 13 years old. The incidents happened both in the "green bedroom" and the master bedroom.

{¶ 31} With respect to the master bedroom, M3 testified that when Tammy would leave or was not there, Greene would lay her down on her side on the bed and would try to penetrate her with his penis. M3 testified that there was a pushing motion and the contact was skin on skin. However, M3 claimed no penetration occurred because she was too young. This happened when she was between nine and 12 years old.

d. Mayerson Center Employees' Testimony

{¶ 32} The state called two social workers, Cecilia Freihofer and Emily Harman. Freihofer testified as to her interview with M1 in July 2020. Freihofer testified as to the allegations that M1 made against Greene during that interview. The allegations that Freihofer described M1 as making were similar in substance to those earlier testified to by M1 at trial. On cross-examination, Freihofer testified that, in 2012, she interviewed M1, M2,

and M3 at the Mayerson Center concerning an alleged perpetrator that was not Greene. During M1's interview, Freihofer asked M1 if anyone had touched her sexually in an inappropriate manner and M1 denied that anyone had.

{¶ 33} Harman testified as to her interviews with M2 and M3, which occurred on the same day as M1's interview in July 2020, regarding their allegations against Greene. Again, the allegations that Harman described M2 and M3 as making against Greene were similar in substance to those earlier described in M2's and M3's trial testimony.

2. Defense Case

a. Tammy's Testimony

{¶ 34} Tammy testified that she and Greene had been married for 24 years. Tammy testified as to various medical issues that Greene suffered, including a bad back. In 2014, he had back surgery. Later, he was diagnosed with cancer and went through extensive treatments. He was very sick during this time.

{¶ 35} Tammy stated that she observed a difference in intimacy with her husband around this time and that Greene had not been able to maintain an erection since 2013. She denied ever observing Greene view pornography, except for early on in their marriage when they viewed it together. She never saw any of the children being exposed to pornography by Greene. Tammy denied being aware of any abuse.

b. Greene's Testimony

{¶ 36} Greene testified that he was a retired Trenton, Ohio police officer and had joined the force in 1979. He retired in 2008. He denied all the allegations of abuse. He stated that he had an accident at the age of 15, which caused back problems as he grew older.

{¶ 37} On cross-examination, Greene admitted that many of his medical issues would *not* have prevented him from engaging in the conduct of which he was accused.

When asked if he had any "clue" as to why his granddaughters would accuse him of these acts, Greene said he had "an idea," but that he was not going to say it in court. He said it was his "opinion." The prosecutor characterized Greene as wanting to keep whatever he was referring to "close to the chest," and Greene agreed with that characterization.

E. The Verdict and Appeal

{¶ 38} The jury returned guilty verdicts as to all counts of the indictment. Greene appealed, raising three assignments of error. We address the third assignment of error first, followed by the first two assignments of error collectively.

II. Law and Analysis

A. Impeachment Evidence

{¶ 39} Greene's third assignment of error states:

{¶ 40} THE TRIAL COURT ERRED IN DENYING THE ADMISSION OF THE 2012 MAYERSON CLINIC INTERVIEW TRANSCRIPT INTO EVIDENCE.

{¶ 41} Greene contends that the trial court erred by not permitting Greene to introduce the transcript of M1's 2012 Mayerson Center interview as extrinsic evidence of a prior inconsistent statement. Greene argues that he laid a proper foundation to impeach M1 with a prior inconsistent statement pursuant to Evid.R. 613(B).

{¶ 42} Evid.R. 613(B) provides:

Extrinsic Evidence of Prior Inconsistent Statement of Witness.
Extrinsic evidence of a prior inconsistent statement by a witness is admissible if both of the following apply:

- (1) If the statement is offered solely for the purpose of impeaching the witness, the witness is afforded a prior opportunity to explain or deny the statement and the opposite party is afforded an opportunity to interrogate the witness on the statement or the interests of justice otherwise require;
- (2) The subject matter of the statement is one of the following:

- (a) A fact that is of consequence to the determination of the action other than the credibility of a witness;
- (b) A fact that may be shown by extrinsic evidence under Evid.R. 608(A), 609, 616(A), or 616(B);
- (c) A fact that may be shown by extrinsic evidence under the common law of impeachment if not in conflict with the Rules of Evidence.

{¶ 43} "The rule 'specifically contemplates the admission of extrinsic evidence of a prior statement under the circumstances outlined in Evid.R. 613(B).'" *State v. Tench*, 156 Ohio St.3d 85, 2018-Ohio-5205, ¶ 200, quoting *State v. McKelton*, 148 Ohio St.3d 261, 2016-Ohio-5735, ¶ 125. That is to say that Evid.R. 613(B) "does not limit inconsistent-statement impeachment to cross-examination, but 'specifically contemplates' the use of extrinsic evidence." *Id.* at ¶ 202, quoting *McKelton* at ¶ 125. Evidence admitted under Evid.R. 613(B) is for the "purpose of attacking the credibility of the witness." *State v. Perkins*, 12th Dist. Clinton No. CA2005-01-002, 2005-Ohio-6557, ¶ 16. Prior inconsistent statements impeach "'on the theory that the making of two different statements with regard to the same event calls into question the truthfulness of the witness,' regardless of the truth or falsity of either of the statements." *Id.*, quoting *State v. Hach*, 9th Dist. Summit No. 19772, 2001 WL 7381, *1 (Jan. 3, 2001). Extrinsic evidence of a prior inconsistent statement is not, however, admissible as substantive evidence that the matter asserted in the statement was true. *Tench* at ¶ 204; *State v. Bethel*, 110 Ohio St.3d 416, 2006-Ohio-4853, ¶ 182-184.

{¶ 44} "In order to introduce the prior inconsistent statement into evidence, proper foundation must be laid." *State v. Mathes*, 12th Dist. Clermont No. CA2012-03-028, 2013-Ohio-1732, ¶ 10. "A proper foundation is laid where the witness denies making the prior statement." *Id.* "However, if a witness admits to making the prior inconsistent statement then extrinsic evidence is not admissible." *Id.*

{¶ 45} We review a trial court's decision to admit or exclude evidence of a prior inconsistent statement under Evid.R. 613(B) for an abuse of discretion. *State v. Young*, 12th Dist. Butler No. CA2020-04-052, 2021-Ohio-2541, ¶ 54. An abuse of discretion implies that the court's attitude was unreasonable, arbitrary, or unconscionable. *State v. Wolons*, 44 Ohio St.3d 64, 68 (1989).

{¶ 46} During M1's cross-examination, Greene's counsel questioned her as to her recollection of being interviewed in 2012 at the Mayerson Center. Counsel asked if she recalled being asked if anyone had touched her inappropriately and whether she recalled answering that question negatively. M1 answered that she did not recall. Counsel then provided M1 with a transcript and directed her to read certain pages. M1 read those pages and stated that she now remembered. Counsel then stated, "so you were asked if anybody—you were 13 years of age at the time. And you were asked, has anybody else touched you or touched you inappropriately, in a sexual way, and you said no. Do you agree with me on that?" M1 responded, "Yes."

{¶ 47} The record is unclear, but after responding, "Yes," it appears that M1 was confused as to what she had just confirmed. The parties and court discussed the matter and the record of that conversation suggests that defense counsel provided M1 with the wrong transcript or the wrong portion of the transcript. The transcript or transcript portion provided did not relate to a question about whether M1 had ever been inappropriately touched, but instead related to some discussion of M1 going to college. After realizing the error, defense counsel then asked M1 to read the originally intended transcript pages. After M1 read those pages, counsel asked if her recollection was refreshed as to what she said at the Mayerson Center in 2012. M1 responded, "I don't remember this at all."

{¶ 48} Defense counsel then asked the court to admit the transcript pages into evidence. The state objected and the court sustained the objection. The court explained

that defense counsel had used the transcript to attempt to refresh M1's recollection, but the document used to refresh recollection does not come into evidence.

{¶ 49} Returning to M1's cross-examination, defense counsel then read aloud from the portion of the transcript in which M1 was asked if she knew "the parts of your body that nobody should touch?" Counsel then quoted M1's apparent response of "I do, but nobody has ever touched them." Counsel then asked M1 if she made that statement. M1 responded, "if it says so in the document, yes, sir."

{¶ 50} The state then objected, arguing that defense counsel was improperly attempting to impeach M1 with extrinsic evidence. The state argued that defense counsel offered M1 the document to refresh her recollection, but she could not remember the interview and could not authenticate the document. The court agreed, stating that the document had not refreshed M1's recollection and defense counsel was stuck with her answer that she could not recall. The court sustained the objection, ruling that Greene's counsel would not be permitted to read M1's statement in the transcript or play a recording of the statement.

{¶ 51} Upon review, we do not find that the trial court abused its discretion in not admitting the transcript of the 2012 Mayerson Center interview as extrinsic evidence of a prior inconsistent statement. M1 did not deny making the prior statement. In fact, she initially appeared to admit to making it, although it is not entirely clear from the record that she meant to confirm making the statement. After reading the transcript of her statement, she then stated that she did not remember making the statement at all. But she did not deny making the statement. After counsel then read her the statement, she appeared to concede that she had made it by responding "if it says so in the document, yes, sir." Thus, there was no basis for impeaching M1 by admitting the transcript under Evid.R. 613(B). And the substantive evidence that Greene was attempting to introduce was in fact

presented to the jury. That is, the jury was presented with a 2012 statement by M1 in which she stated that she knew the parts of her body no one should touch and that "nobody" had ever touched them.

{¶ 52} Greene does not explain how he has demonstrated error when the transcript he complains was not introduced was in fact verbally presented to the jury. Regardless, extrinsic evidence of a prior inconsistent statement would not have been admissible for the reasons stated above and we find no error or abuse of discretion. We overrule Greene's third assignment of error.

B. Sufficiency and Weight of the Evidence

{¶ 53} Greene's first assignment of error states:

{¶ 54} APPELLANT'S CONVICTION WAS BASED ON INSUFFICIENT EVIDENCE AS A MATTER OF LAW.

{¶ 55} Greene's second assignment of error states:

{¶ 56} APPELLANT'S CONVICTION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶ 57} Greene challenges the sufficiency and weight of the evidence supporting his convictions on all nine counts.

1. Standard of Review

{¶ 58} When reviewing the sufficiency of the evidence underlying a conviction, an appellate court examines the evidence to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt. *State v. Paul*, 12th Dist. Fayette No. CA2011-10-026, 2012-Ohio-3205, ¶ 9. Therefore, "[t]he 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." *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph

two of the syllabus.

{¶ 59} A manifest weight of the evidence challenge examines the "inclination of the greater amount of credible evidence, offered at a trial, to support one side of the issue rather than the other." *State v. Barnett*, 12th Dist. Butler No. CA2011-09-177, 2012-Ohio-2372, ¶ 14. To determine whether a conviction is against the manifest weight of the evidence, the reviewing court must look at the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether in resolving the conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed, and a new trial ordered. *State v. Graham*, 12th Dist. Warren No. CA2008-07-095, 2009-Ohio-2814, ¶ 66.

{¶ 60} In reviewing the evidence, an appellate court must be mindful that the original trier of fact was in the best position to judge the credibility of witnesses and determine the weight to be given to the evidence. *State v. Blankenburg*, 197 Ohio App.3d 201, 2012-Ohio-1289, ¶ 114 (12th Dist.). An appellate court will overturn a conviction due to the manifest weight of the evidence only in the exceptional case in which the evidence weighs heavily against the conviction. *State v. Zitney*, 12th Dist. Clinton No. CA2020-06-007, 2021-Ohio-466, ¶ 15. A determination that a conviction is supported by the manifest weight of the evidence will also be dispositive of the issue of sufficiency. *State v. Reeder*, 12th Dist. Clinton Nos. CA2020-09-012 and CA2020-09-013, 2021-Ohio-2988, ¶ 31.

2. Analysis

{¶ 61} Greene argues in the text of his first assignment of error that his convictions were supported by insufficient evidence. However, he does not present an argument challenging the sufficiency of the evidence in his appellate brief. That is, he does not claim that the state failed to submit sufficient evidence on any essential element of any of the nine charged counts. Instead, his arguments all focus on the credibility of M1, M2, and M3, or

on inconsistencies in their statements. Credibility arguments go to the weight of the evidence, not its sufficiency. *State v. Helvey*, 12th Dist. Butler No. CA2021-01-008, 2022-Ohio-98, ¶ 20 (holding that matters relating to inconsistencies in witness testimony go to the weight of the evidence, not the sufficiency of the evidence).

{¶ 62} R.C. 2907.05(A)(4), gross sexual imposition, provides that "No person shall have sexual contact with another, not the spouse of the offender * * * when * * * The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person." "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." R.C. 2907.01(B).

{¶ 63} Rape, in violation of R.C. 2907.02(A)(1)(b), provides that "No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies: * * * The other person is less than thirteen years of age, whether or not the offender knows the age of the other person." "Sexual conduct" means "vaginal intercourse between a male and female; * * * without privilege to do so, the insertion, however slight, of any part of the body * * * into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse."

{¶ 64} Regarding the sufficiency of the evidence, we find that there was testimony to support the guilty verdicts. All three children testified to being under 13 years of age when the incidents took place. M2 testified that she was under ten years of age for the rape charged in Count Six. The circumstances testified to by the victims plainly demonstrate that Greene's actions were for the purposes of his own sexual arousal or gratification. There is no other reasonable explanation for his actions other than sexual arousal.

{¶ 65} M1 testified to two incidents. In one, Greene used his fingers to rub her vaginal area underneath her outer clothing but over top of her underwear. In the other, Greene rubbed his penis directly against her buttocks. M1's testimony was sufficient to support Counts One and Two of the indictment.

{¶ 66} M2 testified to multiple incidents that occurred at Greene's computer. M2 testified that Greene used his hands and penis to rub her vagina. In one of those incidents, Greene penetrated her vagina with his hand. M2 also testified that Greene rubbed his penis on her vagina while she was in his bed. M2's testimony was sufficient evidence to support Counts Three, Four, Five and Six.

{¶ 67} M3 testified that Greene used his hands to rub her vagina in the "green bedroom" as well as in the master bedroom. When she was older, he began penetrating her vagina with his fingers. M3 also testified that Greene would rub or push his penis against her vagina in the master bedroom. M3's testimony was sufficient evidence to support Counts Seven, Eight, and Nine. Consequently, there was testimony by all three victims that, if believed, would convince the average mind of Greene's guilt beyond a reasonable doubt. *Paul*, 2012-Ohio-3205 at ¶ 9.

{¶ 68} Regarding the weight of the evidence, Greene argues that M1, M2, and M3 had credibility issues. Specifically, Greene notes M1's 2012 Mayerson Center interview in which she "denied ever being touched by the Appellant." (In fact, M1 did not deny being touched specifically by Greene. Instead, she generically stated that "nobody" had touched her inappropriately.) Greene also notes that M2 "adamantly" denied that anything had happened between herself and Greene when M1 initially asked. He also notes that M2 did not disclose abuse by Greene when she was interviewed in 2012. Regarding M3, Greene argues that M3 never described penetration during her 2020 Mayerson Center interview.

{¶ 69} Upon review, we do not find that Greene's convictions on all nine counts were

against the manifest weight of the evidence considering the claimed credibility issues of M1, M2, and M3. Through direct testimony and thorough cross-examination, all these issues were laid in front of the jury. And it is the jury that is in the best position to judge witness credibility. *Blankenburg*, 2012-Ohio-1289 at ¶ 114.

{¶ 70} The jury was free to assign whatever weight it determined appropriate in assessing the truth of M1's, M2's, and M3's testimony. *State v. Barron*, 12th Dist. Warren No. CA2020-12-088, 2022-Ohio-102, ¶ 100. The jury may not have placed much weight on the fact that the sisters did not disclose Greene's abuse in the 2012 Mayerson Center interviews. Those interviews regarded an unrelated individual—that is, Greene was not the subject of those interviews. The sisters explained at trial that they individually had decided never to speak about Greene's abuse. M1 did disclose to a friend when she was in the 7th grade, but the friend did not believe her. At that point she promised herself she would never tell another person. The sisters explained that another reason they chose not to disclose was because they did not want to be the person to cause a rift or disruption of the family. And despite his abhorrent behavior, the sisters still considered Greene their "Papaw" and felt affection towards him.

{¶ 71} It was only after M1 finally decided, many years later, to ask M2 about whether she also suffered abuse that disclosure eventually occurred. M2's abrupt reaction to M1's questioning lent to her credibility. As M1 explained it, M2's immediate negative response to the question made her believe that Greene had in fact done something. On further questioning, M2 disclosed that something had happened between her and "Papaw." Defense counsel cross-examined M3 on the fact that she had not disclosed penetration in her 2020 interview.

{¶ 72} Clearly, the jury accepted the testimony of the three sisters, which testimony was in most respects fully consistent with the interviews provided at the Mayerson Center

as testified to by Freihofer and Harman. The consistency of the experiences of all three sisters—the use of the computer, the use of pornography, the abuse ceasing when they began menstruating—lent additional credibility to the sisters' claims.

{¶ 73} On the other hand, Greene's flat denial of all the accusations was less convincing. And Greene's testimony on cross-examination that he believed he knew why his granddaughters were falsely accusing him of these acts but that he did not want to share it did not imbue him with credibility. This is not one of the exceptional cases in which the evidence weighed heavily against the conviction. *Zitney*, 2021-Ohio-466 at ¶ 15. For these reasons, we find that Greene's convictions are supported by sufficient evidence and the greater weight of the evidence. We overrule Greene's first and second assignments of error.

{¶ 74} Judgment affirmed.

HENDRICKSON, P.J., and PIPER, J., concur.