

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 08AP-787
 : (C.P.C. No. 07CR-8692)
 Anthony L. Moore, :
 : (REGULAR CALENDAR)
 Defendant-Appellant. :

D E C I S I O N

Rendered on June 25, 2009

Ron O'Brien, Prosecuting Attorney, and *Seth L. Gilbert*, for appellee.

W. Joseph Edwards, for appellant.

APPEAL from the Franklin County Court of Common Pleas.

TYACK, J.

{¶1} Anthony L. Moore is appealing from his convictions for corrupting another with drugs and possession of heroin. He also appeals from the sentences imposed as a result of those convictions. He assigns two errors for our consideration:

I. BY ARTICULATING NO RATIONALE FOR IMPOSING A CONSECUTIVE SENTENCE, THE TRIAL COURT VIOLATED APPELLANT'S DUE PROCESS RIGHTS UNDER THE OHIO AND FEDERAL CONSTITUTIONS AS HE IS DEPRIVED OF EFFECTIVE AND MEANINGFUL APPELLATE REVIEW OF THE SENTENCE IMPOSED.

II. THE TRIAL COURT ERRED WHEN IT ENTERED JUDGMENT AGAINST THE APPELLANT WHEN THE

EVIDENCE WAS INSUFFICIENT TO SUSTAIN A
CONVICTION AND WAS NOT SUPPORTED BY THE
MANIFEST WEIGHT OF THE EVIDENCE.

{¶2} On September 2, 2007, James Baisden was found dead as the result of an overdose of heroin and cocaine. The evidence presented at trial indicated that Anthony L. Moore provided the drugs which killed Baisden. The trial court sentenced Moore to six years of incarceration for his involvement in Baisden's death. The sentence consisted of a one-year sentence for possession of heroin to be served consecutively to a five-year sentence for corrupting another with drugs.

{¶3} Nothing in the record before us indicates that the sentence given to Moore was, in any way, illegal, or, in any sense, an abuse of discretion. Since corrupting another with drugs is a felony of the second degree, Moore could have been sentenced to as much as eight years of incarceration on that charge alone. R.C. 2925.02(c)(i); R.C. 2929.14(A)(2). Moore had an extensive criminal history, including convictions for burglary, aggravated assault, and attempted felonious assault.

{¶4} Contrary to the assertion in the first assignment of error, the trial judge did give an explanation of the sentence, specifically mentioning the grief caused by Baisden's death and Moore's criminal record.

{¶5} No reversible error exists with respect to the sentences imposed. The first assignment of error is overruled.

{¶6} Sufficiency of the evidence is the legal standard applied to determine whether the case should have gone to the jury. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52. In other words, sufficiency tests the adequacy of the evidence and asks whether the evidence introduced at trial is legally sufficient as a matter of law to

support a verdict. *Id.* "The 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* (1991), 61 Ohio St.3d 259, paragraph two of the syllabus, following *Jackson v. Virginia* (1979), 443 U.S. 307, 99 S.Ct. 2781. The verdict will not be disturbed unless the appellate court finds that reasonable minds could not reach the conclusion reached by the trier of fact. *Jenks* at 273. If the court determines that the evidence is insufficient as a matter of law, a judgment of acquittal must be entered for the defendant. See *Thompkins* at 387.

{¶7} Even though supported by sufficient evidence, a conviction may still be reversed as being against the manifest weight of the evidence. *Id.* In so doing, the court of appeals, sits as a " 'thirteenth juror' " and, after " 'reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.' " *Id.* (quoting *State v. Martin* (1983), 20 Ohio App.3d 172, 175); see also *Columbus v. Henry* (1995), 105 Ohio App.3d 545, 547-48. Reversing a conviction as being against the manifest weight of the evidence should be reserved for only the most " 'exceptional case in which the evidence weighs heavily against the conviction.' " *Thompkins* at 387.

{¶8} Corrupting another with drugs is defined as R.C. 2925.02(A)(3) as follows:

(A) No person shall knowingly do any of the following:

* * *

(3) By any means, administer or furnish to another or induce or cause another to use a controlled substance, and thereby

cause serious physical harm to the other person, or cause the other person to become drug dependent[.]

{¶9} Moore admitted repeatedly that he provided Baisden a large quantity of controlled substances. The coroner's office found that Baisden died as the result of a drug overdose from taking these drugs. The existence of the elements of the offense of corrupting another with drugs was clearly demonstrated and proved during the State of Ohio's case. The evidence was clearly not lacking in sufficiency.

{¶10} The argument regarding the manifest weight of the evidence has no greater validity. At most, the evidence indicated that Baisden suffered from sleep apnea, which can be worsened by abusing heroin and/or cocaine. However, providing controlled substances to someone who is more vulnerable to serious physical harm from taking controlled substances is not a defense to the charge of corrupting another with drugs. Baisden took the drugs provided by Moore and died as a result. The conviction for corrupting another with drugs was not against the manifest weight of the evidence.

{¶11} The evidence was even more clear that Moore possessed heroin. Moore admitted to this repeatedly. The heroin was used at Moore's residence and administered using implements provided by Moore. The conviction for possession of heroin is not vulnerable to attack from either a sufficiency or manifest weight perspective.

{¶12} The second assignment of error is overruled.

{¶13} Both assignments of error having been overruled, the judgment and sentence of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

BRYANT and BROWN, JJ., concur.
