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

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| STATE OF OHIO, | : | APPEAL NO. C-240265<br>TRIAL NO. C/23/CRB/18839 |
| Plaintiff-Appellee, | : | |
| vs. | : | *JUDGMENT ENTRY* |
| SKYLAR RODGERS, | : | |
| Defendant-Appellant. | : | |

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calender, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

On October 13, 2023, defendant-appellant Skylar Rodgers was served a civil stalking protection order under R.C. 2903.214 by the Hamilton County Sheriff's Department, which named A.L. and N.L. (husband and wife) as protected parties. Ms. Rodgers previously worked as the couple's maid, but the relationship soured when A.L. repaired Ms. Rodgers's car. Ms. Rodgers alleged that she was upset because the car was not completely repaired when she paid for it, but N.L. maintained that Ms. Rodgers was actually upset because she was asked to pay A.L. for the repair costs in full, upfront. But regardless of the nuances of the underlying dispute, the tensions between the couple and Ms. Rodgers heated to a point where the couple felt as though they needed a protection order, and they petitioned for one, which the trial court granted.

The order required Ms. Rodgers to cease all contact with the couple, including any contact through social media. However, after feeling "taunted and enticed" by several posts N.L. made about the incident, Ms. Rodgers allegedly commented on N.L.'s social media posts several days *after* she was served the order. Feeling unsafe, N.L. and A.L. reported the contact to the Blue Ash Police Department. An officer then called Ms. Rodgers to inquire about the incident, stating that someone with the username "Skylar" commented on N.L.'s TikTok post and that someone with a similar username commented on N.L.'s Instagram post. On the phone call, Ms. Rodgers emphasized that she only responded to *other* individuals in the comment section of N.L.'s TikTok post and did not mention or comment to N.L. directly. She also provided the officer with her social media usernames, which later validated that she made the posts.

Ms. Rodgers was later arrested and charged with violating a protection order under R.C. 2919.27(A). The issue proceeded to a bench trial, where the trial court ultimately convicted her, finding that she commented on N.L.'s posts after the service of the order, and thus, she violated the protection order. She now appeals to this court, presenting one assignment of error. In her sole assignment of error, Ms. Rodgers argues that the trial court's judgment finding her guilty of violating a protection order was unsupported by sufficient evidence and was against the manifest weight of the evidence.

In reviewing a challenge to the sufficiency of the evidence supporting a criminal conviction, the appellate court "must examine 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. Anderson*, 2017-Ohio-8641, ¶ 10 (1st Dist.), citing *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. "'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.'" *Id.*, quoting *Jenks* at paragraph two of the syllabus. As this is a question of law, the appellate court reviews the evidence de novo. *Id.*, citing *In re D.S.*, 2013-Ohio-4565, ¶ 6 (1st Dist.).

When deciding whether a judgment entered by the trial court is against the manifest weight of the evidence, we "must always be mindful of the presumption in favor of the finder of fact." *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 21. The manifest weight of the evidence standard refers to whether there is a "'greater amount of credible evidence . . . to support one side of the issue rather than the other.'" *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997), quoting *Black's Law Dictionary* (6th Ed. 1990). The court must look to and "'weigh[] the evidence and all reasonable inferences, consider[] the credibility of witnesses and determine[] whether . . . the [factfinder] clearly lost its way and created such a manifest miscarriage of justice'" so as to justify reversal. *Id.*, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983).

As noted previously, Ms. Rodgers was convicted of violating a protection order under R.C. 2919.27(A)(2), which states that "[n]o person shall recklessly violate the terms of . . . [a] protection order issued pursuant to section . . . 2903.214 of the Revised Code." "'[A] person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature.'" *State v. Brady*, 2024-Ohio-269, ¶ 21 (1st Dist.), quoting R.C. 2901.22(C).

Here, Ms. Rodgers essentially asserts that the trial court erred when it found her guilty of the violation because the evidence provided by the State only showed that

an individual with the username "Skylar" commented on N.L.'s TikTok post, which was not one of the usernames she provided to police. Additionally, she asserts that the evidence provided to the trial court did not show a specific date that the comments on TikTok and Instagram were made, meaning they could not prove that they were made after the service of the order. Finally, as she did on the call with the officer, she briefly points out that even if she was the individual commenting, she was only responding to others without mentioning or commenting to N.L. directly (and thus not "contacting" her in violation of the order).

However, the evidence (consisting of several screenshots of the social media interaction) tells a different story. A screenshot of the TikTok account with the username Ms. Rodgers provided to police shows that the overall account name is "Skylar" (the username commenting on N.L.'s post). Additionally, the same screenshot of this account shows a post made on the account that matches a different screenshot of a post made by "Skylar" (which referenced the incident that led to the order). Both pieces of evidence would indicate to a reasonable fact-finder that Ms. Rodgers is the owner of this account. Furthermore, "Skylar" responded to other individuals' inquiries about "who [] Skylar [was]" in a way that tends to show that Ms. Rodgers was the individual responding (e.g., responding "me"). A screenshot of N.L.'s Instagram comments show that the username Ms. Rodgers provided to police commented on one of her posts. Beyond vague assertions that this evidence is insufficient, Ms. Rodgers does not direct us to anywhere in the record that refutes this evidence, or alternatively, supports her position that she is not "Skylar."

As it pertains to Ms. Rodgers's argument that the State did not provide sufficient evidence that the comments (if made by her) were made after the service of the order, the evidence (again) tells a different story. While some screenshots of other

individuals' comments that "Skylar" responded to says the comments were made "2 days ago" (making it unclear if they were posted before or after the order was served), subsequent screenshots of the same comments show that they were made on October 14 and 15 of 2023. That means that the responsive comments from "Skylar" would have been made on or after those dates, and thus, were made after Ms. Rodgers was originally served on October 13, 2023 (a date which she does not contest). On top of that, N.L. testified that she saw the comments on her TikTok and Instagram accounts after October 13, 2023, and beyond mere speculation that N.L.'s statements are untruthful, Ms. Rodgers offered no evidence at trial and points us to nowhere in the record on appeal to refute such assertions.

Lastly, Ms. Rodgers briefly argues that even if she was the individual that responded to others' comments on N.L.'s posts, she did not mention or respond to N.L. directly, and thus, did not "contact" her in violation of the protection order. However, "contact" for the purposes of a protection order does not only include physical or overt contact. *State v. Crosby*, 2020-Ohio-3306, ¶ 29 (6th Dist.). The Fifth District held that sufficient evidence supported the defendant's conviction for violating a protection order when the evidence showed that the defendant posted a photo of a book title to the victim's employer's Yelp page, even though the defendant did not leave a comment on the photo referencing the victim or explicitly mentioning the victim in any other way. *State v. Smith*, 2018-Ohio-5121, ¶ 61 (5th Dist.). Therefore, even though Ms. Rodgers contends that her social media comments did not constitute "contact" because she did not respond to or mention N.L. directly, case law leads us to a different conclusion based upon the arguments before us.

Based on the foregoing reasoning, Ms. Rodgers failed to demonstrate how the trial court erred when it found her guilty of violating a protection order under R.C.

2919.27(A), as she failed to refute the State's evidence that the comments were made by an account with a username she gave to the police and were made after the service of the protection order. If we view the evidence in a light most favorable to the State, it suffices to support the trial court's judgment, as Ms. Rodgers offered nothing to the contrary. Furthermore, Ms. Rodgers failed to provide any compelling reason for us to hold that the trial court's judgment was contrary to the greater amount of credible evidence.

For those reasons, we overrule Ms. Rodgers's sole assignment of error and affirm the trial court's judgment.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

**KINSLEY, P.J., BERGERON** and **WINKLER, JJ.**

**To the clerk:**
**Enter upon the journal of the court on 1/10/2025 per order of the court.**

**By:_____**
**Administrative Judge**