

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs at Nashville August 11, 2026

STATE OF TENNESSEE v. TONY MANNING

**Appeal from the Criminal Court for Knox County
No. 111041 G. Scott Green, Judge**

No. E2025-01542-CCA-R3-CD

A Knox County jury convicted the Defendant, Tony Manning, of one count of aggravated assault, one count of rape, and two counts of attempted rape. The trial court imposed an effective sentence of eight years. The Defendant's trial counsel filed an untimely motion for new trial, which the trial court dismissed. The Defendant appealed, and this court dismissed his appeal as untimely. The Defendant then filed a pro se petition for relief from conviction or sentence. The trial court appointed the Defendant counsel, who filed a motion requesting permission to file a delayed motion for a new trial. The trial court granted this motion, and counsel filed a delayed motion for a new trial based on a claim of insufficient evidence. The trial court denied the motion. The Defendant now appeals, maintaining that the evidence is insufficient to sustain his convictions. After review, we affirm the trial court's judgments.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

ROBERT W. WEDEMEYER, P.J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and J. ROSS DYER, J.J., joined.

Joseph Liddell Kirk, Madisonville, Tennessee, for the appellant, Tony Manning.

Jonathan Skrmetti, Attorney General and Reporter; Kelly M. Telfeyan, Assistant Attorney General; Charmé P. Allen, District Attorney General; and Jeannine Guzolek, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. Facts

We recite the relevant facts as written in our 2023 opinion addressing the Defendant's direct appeal:

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In June 2016, A.R. was living with her sister in Cleveland, Tennessee.[□] During this time, she met the Defendant on a dating website. The two began messaging and calling, and the Defendant ultimately traveled to Cleveland to meet A.R. in person.

The following month, A.R. moved to Knoxville to live with the Defendant in his one-bedroom apartment. The relationship quickly turned intimate. However, the Defendant also tried to control A.R., and he would get upset when A.R. talked with other people.

About two weeks after A.R. moved to Knoxville, she and the Defendant had an argument through text messages. When the Defendant came home on July 25, he found A.R. in the bedroom. He wrapped his hands around her neck and started to strangle her. While the Defendant was choking her, A.R. could not breathe freely, could not feel anything, and thought she would die. The Defendant later apologized and told A.R. he loved her. A.R. did not call the police because she felt the Defendant would not attack her again.

A few days later on July 28, 2016, the Defendant entered their bedroom and ordered A.R. to take off her pajamas. When A.R. said she did not want to, the Defendant then grabbed her by the hip, pulled her down onto him, and tried to have intercourse with her. The Defendant also attempted anal sex, and his attempts hurt her. Finally, he forced her to perform oral sex. A.R. repeatedly told him “No” and “Stop,” but the Defendant pretended not to hear her.

When the Defendant went to work the next day, A.R. called the police and reported that the Defendant had choked and sexually assaulted her. Officer Jason Boston with the Knoxville Police Department met with A.R., and she told him that the Defendant had raped her the previous night.

The officer took A.R. to the Sexual Assault Center in Knox County. At the Sexual Assault Center, A.R. was examined by Sally Helton, a certified sexual assault nurse examiner. In her examination of A.R., Ms. Helton documented injuries to A.R. that were consistent with strangulation and A.R.’s description of the rape.

State v. Manning, No. E2022-01715-CCA-R3-CD, 2023 WL 7439203, at *1 (Tenn. Crim. App. Nov. 9, 2023) (footnote omitted), *perm. app. denied* (Tenn. May 16, 2024). The jury found the Defendant guilty of one count of aggravated assault, one count of rape, and two counts of attempted rape. The Defendant was sentenced to an effective eight-year sentence.

On August 30, 2022, the Defendant filed his first motion for new trial wherein he argued that the State's expert testimony was improper. On November 11, 2022, the trial court filed an order denying the motion as untimely. The Defendant appealed to this court, and, in a November 2023 opinion, we deemed the filing of the notice of appeal to be untimely and dismissed the appeal without addressing the merits. *See State v. Manning*, No. E2022-01715-CCA-R3-CD, 2023 WL 7439203, at *6 (Tenn. Crim. App. Nov. 9, 2023). The Tennessee Supreme Court denied the Defendant's request for permission to appeal.

On July 24, 2024, the Defendant filed a pro se petition for relief from conviction or sentence. The trial court appointed post-conviction counsel ("Counsel") for the Defendant. On October 7, 2024, Counsel filed an amended petition for post-conviction relief. The petition asked the trial court for permission to file a delayed motion for new trial and delayed appeal on the ground that the Defendant was unconstitutionally denied the right to appellate review of his convictions because trial counsel filed an untimely motion for a new trial and an untimely notice of appeal, in which trial counsel never argued for waiver of timely filing the notice of appeal. On January 9, 2025, the trial court entered an order granting the Defendant the opportunity to file a delayed motion for a new trial and to stay post-conviction proceedings pending the appeal.

On February 4, 2025, the Defendant filed a second motion for a new trial wherein Counsel argued the State presented insufficient evidence to support the Defendant's convictions.

The trial court held a hearing on the Defendant's motion for a new trial on September 5, 2025. During that hearing, the parties presented no evidence, but Counsel contended (1) the credibility of A. R. was at issue, (2) there were alternative explanations for A.R.'s injuries, as certified sexual assault examiner Ms. Helton testified at trial that A.R.'s injuries were consistent with sexual assault but were not conclusive, and (3) there was no physical evidence conclusive of the Defendant's guilt. The State offered no argument in response. At the conclusion of the hearing, the trial court announced it was denying the motion for new trial. The court entered an order reflecting this decision that same day.

The Defendant now appeals from the trial court's September 5, 2025 order denying his motion for a new trial.

II. Analysis

On appeal, the Defendant argues that there is insufficient evidence in the record to support his convictions because what A.R. perceived as non-consensual conduct he perceived as consensual. The Defendant contends that he and the victim routinely had consensual sex after he got home from work, so their encounter on the night of July 27 into the morning hours of July 28 must have been consensual as well. The Defendant further argues that the sexual assault examination did not conclusively show A.R. suffered injury because of non-consensual sex. According to the Defendant, the injuries are consistent with both consensual and non-consensual sex. The State responds that sufficient evidence supports the Defendant's convictions because the evidence presented at trial proved the crimes beyond a reasonable doubt. The State contends that the Defendant's consensual versus non-consensual argument fails because A.R.'s testimony that she resisted the Defendant and repeatedly verbalized her lack of consent establishes that the encounter was non-consensual. The State further counters that, although the Defendant and A.R. had consensual sex in the past, that did not automatically make the encounter at issue consensual. We agree with the State.

Before proceeding, we note that the Defendant focuses his arguments on his perception of consensual conduct versus A.R.'s perception of non-consensual conduct. Therefore, we assume he challenges only his rape and attempted rape convictions as being supported by insufficient evidence and does not challenge his conviction for aggravated assault. We focus this opinion on addressing the issue of whether sufficient evidence supports the Defendant's convictions for rape and attempted rape.

A. Standard of Review

This court reviews claims of insufficient evidence by asking “whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *State v. Miller*, 638 S.W.3d 136, 157 (Tenn. 2021) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L.Ed.2d 560 (1979)) (emphasis in original). “To obtain relief on a claim of insufficient evidence, the defendant must demonstrate that no reasonable trier of fact could have found the essential elements of the offense beyond a reasonable doubt.” *State v. Perrier*, 536 S.W.3d 388, 408 (Tenn. 2017) (citing *Jackson*, 443 U.S. at 319, 99 S. Ct. 2781). “This standard of review is identical whether the conviction is predicated on direct or circumstantial evidence, or a combination of both.” *State v. Clayton*, 535 S.W.3d 829, 844 (Tenn. 2017) (citing *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011)).

“The credibility of the witnesses, the weight to be given their testimony, and the reconciliation of conflicts in the proof are matters entrusted to the jury as the trier of fact.” *State v. James*, 315 S.W.3d 440, 455 (Tenn. 2010) (citing *State v. Hanson*, 279 S.W.3d 265, 274 (Tenn.2009)). “Because a guilty verdict removes the presumption of innocence and replaces it with a presumption of guilt, on appeal a defendant bears the burden of showing why the evidence is insufficient to support the conviction.” *State v. Wagner*, 382 S.W.3d 289, 297 (Tenn. 2012) (citing *State v. Parker*, 350 S.W.3d 883, 903 (Tenn.2011)). “This Court affords the State the strongest legitimate view of the evidence presented at trial and the reasonable and legitimate inferences that may be drawn from the evidence.” *Id.* (citing *State v. Bland*, 958 S.W.2d 651, 659 (Tenn.1997)).

B. Sufficiency of Evidence

The Defendant argues that there is insufficient evidence to support his convictions for rape and attempted rape because he and A.R. perceived the conduct in question differently. He claims to have perceived it as being consensual, while A.R. perceived it as non-consensual. According to the Defendant, this is a situation where two people can have different perceptions of the same event. Because he and A.R. had consensual sex in the past when he returned home from work, he contends that he was just engaging in their normal routine when he returned from work on the night in question. The Defendant further argues that A.R.’s injuries could have resulted from consensual sex. In making this argument, the Defendant relies on the trial testimony given by Ms. Helton and her Sexual Assault Nurse Examiner (“SANE”) report, which provide the injuries suffered by A.R. are not conclusive of non-consensual sex. The State counters that sufficient evidence supports the Defendant’s convictions for rape and attempted rape. It contends that it offered sufficient evidence to prove that the sexual penetration was not consensual.

In “overrul[ing]” the Defendant’s motion for a new trial based on a claim of insufficient evidence, the trial court cited A.R.’s trial testimony, stating that she “was a very, very powerful and compelling witness on the witness stand . . . she was a very, very good witness. And the jury believed her. And, quite frankly, I believed her.” The court, however, did not provide any additional explanation as to why it denied the Defendant’s motion, but it clearly found that A.R.’s testimony was sufficient to support the Defendant’s convictions.

Rape is the “unlawful sexual penetration of a victim by the defendant” where “[f]orce or coercion is used to accomplish the act.” T.C.A. § 39-13-503(a)(1). Thus, to prove rape, the State must prove the defendant (1) unlawfully sexually penetrated the victim (2) by using force or coercion. Attempted rape is when the defendant intends to commit rape and takes a substantial step towards the commission of the crime. *State of Tennessee v. Stephen Richard Pratt*, No. E2025-01133-CCA-R3-CD, 2026 WL 2389069,

at *10 (Tenn. Crim. App. Aug. 17, 2026) (citing T.C.A. § 39-12-101(a)(3) and T.C.A. § 39-13-503(a)(1)). To prove attempted rape, the State must prove the defendant (1) intended to commit rape and (2) took a substantial step towards committing the crime. *Id.*

In this case, the evidence presented at trial, viewed in the light most favorable to the State, proved that on July 27, 2016, the Defendant came home from work around midnight, entered their shared bedroom, and demanded that A.R. undress. She did not undress initially but eventually gave in to his repeated demands. Once undressed, the Defendant pulled A.R. toward him by her right hip. He then attempted to insert his penis into her vagina. She did not want to have sex with him and kept telling him “No” and “Stop,” but he would not listen and continued to pursue penetration of A.R. She tried to keep her legs closed to prevent him from penetrating her vagina. Because the Defendant was unable to reach completion through vaginal penetration, he attempted anal penetration. The Defendant was again unable to reach completion, so he demanded that A.R. perform oral sex on him. She complied because she felt like she had no other choice. When she put her mouth on the Defendant’s penis, he began holding her head down. This encounter lasted into the early morning hours of July 28.

A.R. called the police as soon as she was alone in the afternoon on July 28. She consistently relayed this version of events to the responding officers, to Ms. Helton, and at trial. After conducting a sexual assault examination of A.R., Ms. Helton determined that the injuries A.R. sustained to her vagina, although not conclusive of non-consensual sex, were consistent with A.R.’s version of events. Ms. Helton included that determination in her SANE report and testified to it at trial. Importantly, in denying the motion for a new trial, the court found that the jury perceived A.R. to be credible. We will not disturb the jury’s credibility determinations, so we place just as much weight on A.R.’s testimony as the jury did when analyzing the Defendant’s claim of insufficient evidence. *See State v. Curry*, 705 S.W.3d 176, 183 (Tenn. 2025) (citing *State v. Smith*, 24 S.W.3d 274, 279 (Tenn. 2000); *State v. Majors*, 318 S.W.3d 850, 857 (Tenn. 2010)) (When analyzing sufficiency of the evidence “[w]e do not reweigh the evidence,[], because questions regarding witness credibility, the weight to be given the evidence, and factual issues raised by the evidence are resolved by the jury as the trier of fact,[].”) (citations omitted). Further, this court has previously upheld rape convictions based solely on the victim’s testimony. *State v. Bonds*, 189 S.W.3d 249, 256 (Tenn. Crim. App. 2005) (“[T]he testimony of a victim, by itself, is sufficient to support a conviction.”) (quoting *State v. Strickland*, 885 S.W.2d 85, 87 (Tenn. Crim. App. 1993); citing *State v. Williams*, 623 S.W.2d 118, 120 (Tenn. Crim. App. 1981)).

Considering the evidence presented at trial in the light most favorable to the State, particularly the testimony offered by A.R., we conclude that a rational jury could find beyond a reasonable doubt that the Defendant raped A.R. and attempted to rape A.R. The Defendant is not entitled to relief on this issue.

III. Conclusion

After a thorough review of the record and relevant authorities, we affirm the trial court's judgments.

S/ ROBERT W. WEDEMEYER

ROBERT W. WEDEMEYER, PRESIDING JUDGE