

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	
Plaintiff-Appellee	:	Hon. William B. Hoffman, P.J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	Hon. William B. Hoffman, J.
	:	
	:	Case No. 15CA94
	:	
CODY COATS	:	
	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Appeal from the Richland County Court of Common Pleas, Case No. 2015-CR-0513D

JUDGMENT: AFFIRMED

DATE OF JUDGMENT ENTRY: May 23, 2016

APPEARANCES:

For Plaintiff-Appellee:	For Defendant-Appellant:
BAMBI COUCH PAGE RICHLAND COUNTY PROSECUTOR	DALE M. MUSILLI 105 Sturges Avenue Mansfield, OH 44903
DANIEL M. ROGERS 38 S. Park Street Mansfield, OH 44902	

Delaney, J.

{¶1} Defendant-Appellant Cody Coats appeals his conviction and sentence by the Richland County Court of Common Pleas. Plaintiff-Appellee is the State of Ohio.

FACTS AND PROCEDURAL HISTORY

{¶2} Defendant-Appellant Cody Coats is an inmate at the Mansfield Correctional Institute located in Mansfield, Ohio.

{¶3} Coats was indicted for one count of Possession of a Deadly Weapon While Under Detention, a third-degree felony in violation of R.C. 2923.131(B) and (C)(2)(c)(i). Coats pleaded not guilty to the charge and the matter proceeded to a jury trial on October 8, 2015. The following evidence was adduced at trial.

{¶4} Coats was serving a sentence for his conviction for burglary, a second-degree felony, at the Mansfield Correctional Institute. On May 7, 2014, Corrections Officer Matthew Johnson took Coats to the infirmary. C.O. Johnson stood at the door while Nurse Sharon Lavender conducted a routine clinic check of Coats. Coats's hands were handcuffed behind his back during the routine clinic check. During a routine clinic check, Nurse Lavender takes the patient's vital signs and lifts the patient's shirt to check their trunk. When Nurse Lavender lifted Coats's shirt, she observed two jagged, large can lids behind his white boxers and under his blue uniform. The can lids were at least six inches in diameter.

{¶5} When she observed the can lids, Nurse Lavender called for help and C.O. Johnson responded. Nurse Lavender knew that inmates were not allowed to have can lids in their possession pursuant to the Mansfield Correctional Institution's security policy.

C.O. Johnson seized the two can lids, transferred Coats back to his cell, and gave Coats a contraband ticket.

{¶6} Cathy Brawley, the Correctional Warden's Assistant, testified the security policy of the Mansfield Correctional Institution was changed after the 1993 riot at the Southern Ohio Correctional Facility in Lucasville, Ohio. During the riot, an inmate used a can lid to assault a staff member whom later died from their injuries. The Mansfield Correctional Institution classified can lids as weapons and declared them contraband. C.O. Johnson testified that when an inmate first arrives at the Mansfield Correctional Institution, the inmate receives a handbook. The handbook instructs the inmate what they are allowed and not allowed to have in their possession.

{¶7} Coats was employed in the kitchen at the Mansfield Correctional Institute. C.O. Johnson testified that in the kitchen, the inmates are permitted to use the can opener to open cans, but they are not allowed to fully remove the can lid. They must leave half of the can lid attached to the can. Brawley testified that the kitchen has a box on the wall where can lids are disposed of and accounted for. A private company checks the can lids. Knives used in the kitchen are kept in a locked storage box and the kitchen staff checks the number of knives.

{¶8} At the close of the State's case, Coats moved for acquittal pursuant to Crim.R. 29(A). The trial court overruled the motion.

{¶9} The jury found Coats guilty. The trial court proceeded to sentencing immediately following the verdict and sentenced Coats to 18 months in prison to be served consecutively to his previous sentence.

{¶10} The sentence was journalized on October 12, 2015. It is from this judgment Coats now appeals.

ASSIGNMENTS OF ERROR

{¶11} Coats raises three Assignments of Error:

{¶12} “I. THE TRIAL COURT ERRED AS A MATTER OF LAW IN NOT GRANTING THE MOTION FOR ACQUITTAL.

{¶13} “II. THE VERDICT WAS NOT SUPPORTED BY SUFFICIENT EVIDENCE.

{¶14} “III. THE VERDICT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.”

ANALYSIS

I. and II.

{¶15} Coats argues in his first Assignment of Error the trial court erred in overruling his motion for acquittal pursuant to Crim.R. 29(A). He argues in his second Assignment of Error that the verdict was not supported by sufficient evidence.

{¶16} An appellate court reviews a denial of a Crim.R. 29 motion for acquittal using the same standard used to review a sufficiency of the evidence claim. *State v. Larry*, 5th Dist. Holmes No. 15CA011, 2016-Ohio-829, ¶ 20 citing *State v. Carter*, 72 Ohio St.3d 545, 553, 651 N.E.2d 965, 1995–Ohio–104. We therefore consider Coats’s first and second Assignments of Error together. The standard of review for a challenge to the sufficiency of the evidence is set forth in *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991) at paragraph two of the syllabus, in which the Ohio Supreme Court held, “[a]n appellate court's function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such

evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt. 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." See *State v. Dowdle*, 5th Dist. Stark No. 2015CA00119, 2016-Ohio-485, ¶ 16

{¶17} Coats was convicted of Possession of a Deadly Weapon While Under Detention in violation of R.C. 2923.131(B) and (C)(2)(c)(i). R.C. 2923.131(B) states, "[n]o person under detention at a detention facility shall possess a deadly weapon." R.C. 2923.131(C)(2)(c)(i) states:

(C) Whoever violates this section is guilty of possession of a deadly weapon while under detention.

* * *

(2) If the offender, at the time of the commission of the offense, was under detention in any other manner, possession of a deadly weapon while under detention is one of the following:

* * *

(c) A felony of the third degree if any of the following applies:

(i) The most serious offense for which the person was under detention is a felony of the second degree committed on or after July 1, 1996, or is an aggravated felony of the second degree or a felony of the first degree committed prior to July 1, 1996.

{¶18} R.C. 2923.11(A) defines a “deadly weapon” as “any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.”

{¶19} In this case, there are facts that Coats does not dispute: (1) Coats was under detention at the Mansfield Correctional Institution for his conviction in 2009 for a second-degree felony; (2) On May 7, 2014, Coats was found in possession of two can lids in violation of the prison’s security policy; and (3) Can lids could be used to inflict death or used as a weapon. Coats argues there was insufficient evidence to demonstrate that Coats intended to use the can lids as a deadly weapon. Coats had not modified the can lids for use as weapons nor had he used the can lids to injure anyone.

{¶20} Coats concealed the can lids in the waistband of his boxer shorts. When Nurse Lavender found the can lids tucked in Coats’s waistband during her routine clinic check, she called for help. She feared for her safety because she knew a can lid could be used as a weapon. C.O. Johnson testified can lids were classified as weapons in the Mansfield Correctional Institution handbook, which was distributed to inmates upon the inmate’s arrival at the prison. C.O. Johnson testified a can lid could be used as a weapon without being modified. Due to safety concerns, inmates working in the kitchen were not permitted to completely remove the can lids with the can opener. Can lids were to be left attached to the can. If removed, can lids were to be disposed in a disposal box.

{¶21} In *State v. Samples*, 5th Dist. Stark No. 2004CA00088, 2005-Ohio-86, this Court determined that a 4-inch nail found in the possession of an inmate could be considered a deadly weapon pursuant to the statute even though the inmate had not used the nail as a weapon. *Id.* at ¶ 18. We found the inmate’s failure to use the nail as a weapon

did not negate the nail's nature as a deadly weapon. *Id.* The police officer who discovered the nail testified that in his experience, he had seen different items fashioned into weapons, including nails and metal objects. *Id.*

{¶22} We find there was sufficient evidence presented to show that Coats was in possession of a deadly weapon. Coats's first and second Assignments of Error are overruled.

III.

{¶23} Coats argues in his third Assignment of Error that his conviction was against the manifest weight of the evidence. We disagree.

{¶24} In determining whether a conviction is against the manifest weight of the evidence, the court of appeals functions as the "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 overturned and a new trial ordered." *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Reversing a conviction as being against the manifest weight of the evidence and ordering a new trial should be reserved for only the "exceptional case in which the evidence weighs heavily against the conviction." *Id.*

{¶25} Coats argues the evidence at trial shows that Coats's behavior did not indicate he would use the can lids as a deadly weapon. He was cooperative with Nurse Lavender when she conducted her clinic check even though he had the can lids tucked in his waistband. Coats worked in the kitchen and C.O. Johnson testified only inmates

who were “ticket free” (without disciplinary infractions) were permitted to work in the kitchen. There was no testimony as to how Coats obtained the can lids.

{¶26} The evidence in this case shows that Coats was in possession of two, six-inch can lids. Coats concealed the can lids under his waistband. Inmates were not permitted to be in possession of can lids because the Mansfield Correctional Institution declared that a can lid was a weapon. The Mansfield Correctional Institution changed its security policy to declare that a can lid was a weapon because injuries were caused by a can lid during the Lucasville prison riot. The Mansfield Correctional Institution notified inmates that can lids were considered weapons and contraband in the handbook distributed to inmates upon their arrival.

{¶27} As in *State v. Samples*, we find the fact that Coats did not use the can lid as a weapon does not negate its nature as a deadly weapon. Coats’s conviction was not against the manifest weight of the evidence. Coats’s third Assignment of Error is overruled.

CONCLUSION

{¶28} The judgment of the Richland County Court of Common Pleas is affirmed.

By: Delaney, J.,

Hoffman, P.J. and

Baldwin, J., concur.