

COURT OF APPEALS OF VIRGINIA

Record No. 1073-25-1

BENJAMIN LOUIS YOUNG
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Athey, Ortiz and Causey

Argued at Lexington, Virginia

Opinion Issued September 1, 2026 *

FROM THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

Afshin Farashahi, Judge

Matthew J. Weinberg (Jennifer Gebler; Inman & Strickler, P.L.C., on briefs), for appellant.

Tanner M. Russo, Assistant Attorney General (Jason S. Miyares,¹ Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY JUDGE DANIEL E. ORTIZ

A jury convicted Benjamin Louis Young of object sexual penetration and forcible sodomy. The trial court sentenced Young to 60 years' incarceration, with 45 years suspended. On appeal, Young challenges the sufficiency of the evidence underlying the object sexual penetration conviction. He also argues that the trial court erred when it refused to exclude expert testimony about trauma. Finding no error, we affirm the trial court's judgment.

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

¹ Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

BACKGROUND²

B.J.³ worked as a “beverage cart girl” and in the pro shop at a golf and yacht country club. As part of her job, she brought drinks and snacks to golfers on the course. Young was a member of the golf club whom B.J. saw “a couple of times a week or every other week” when she worked at the club. They occasionally engaged in small talk, and she had no issues with Young during her employment at the club.

In July 2022, the club fired B.J. after an incident with an intoxicated member who “ma[de] some comments towards [her]” that she disregarded. After her termination, Young messaged her on Facebook and asked where she was working and lamented that it “[s]ucks what happened at the club. We miss you.”⁴ B.J. had never had contact with Young outside the club. She responded that she had tried to get her job back and missed “everyone a lot.” Young encouraged her to “stay in touch” because he had an “office position.” B.J. replied that she “would love to hear more” and they exchanged phone numbers at his request.

B.J. and Young texted and spoke about a “nighttime leads” position at Young’s HVAC company, Hybrid Air. The position involved working from home to receive customer calls after regular business hours and scheduling a technician to respond. B.J. accepted the job and arrived at Hybrid Air the following Monday for “on-boarding.” Young directed her to fill out a “new hire packet” in his office and to “sit with Kristy [Schneider] and watch what she does,” which

² We recite the facts “in the ‘light most favorable’ to the Commonwealth, the prevailing party in the trial court.” *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022) (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)). In doing so, we discard any evidence that conflicts with the Commonwealth’s evidence, and regard as true all the credible evidence favorable to the Commonwealth and all inferences that can be fairly drawn from that evidence. *Cady*, 300 Va. at 329.

³ We refer to the 19-year-old victim by her initials to protect her privacy.

⁴ B.J. was on vacation at the time.

she did. After work, B.J. texted Young to ask what time she should report on Tuesday, and he told her to “call [him] at 5:00 p.m. to discuss.” She called and spoke with Young, but he did not give her a time to report. During the first week, B.J. sat with Schneider and the receptionist, Rhonda. In a private discussion, B.J. told Schneider that she thought Young was “gross,” “like a dirty old man,” and “like an old dad.”

Her training for the nighttime leads jobs was limited to a “FaceTime call to a girl who used to do nighttime leads.” B.J. took “some tests on basic [] HVAC knowledge,” but did not receive the computer and phone Young had promised her. When she asked Young about her schedule since she had not received the equipment, he told her to “call him when [she] was leaving.” In that after-hours call, Young said he “didn’t have the money to keep [her] on payroll,” told her to “send him” her hours, and arranged for her to pick up a check the following Monday. She sent him her hours and he suggested they speak on Monday afternoon to schedule a time for her “to swing by on Tuesday” so he could pay her. B.J. agreed to come to the office on Tuesday at 9:00 a.m.

On Tuesday, Young texted that he was “running behind” and would be at “the office closer to 10:00.” He asked if the new time was “good” or if she preferred he mail the check to her. B.J. replied that she would retrieve the check in person. When B.J. arrived at Hybrid Air, Young said that he wanted to “have a conversation” with her, led her into his office, and closed the door.

Initially Young sat at his desk, and B.J. sat on a sofa. He handed B.J. a check⁵ and “apologized for not being able to keep [her] on payroll.” B.J. thought it was “a little weird” when Young began discussing “body building,” telling B.J. that she “had a good physic [sic] for it,” and that “massages” can help “cut your muscles.” He asked if he could “point on [her] leg

⁵ B.J. noticed Young “paid [her] a little bit over” what she was owed.

where you should massage to help cut the muscles.” B.J. said that he could because she “thought [Young] would point,” that the conversation “would be over,” and that she could “leave.”

Instead, Young joined B.J. on the couch, pointed to a muscle on her leg, and began “massaging [her right] leg” without her consent while “explaining the science behind the massage.” B.J. was “very shocked that [Young] was touching her” but said nothing because she was “scared” and “couldn’t really process what was happening at the moment.” Young massaged “up [her right] leg” using both of his hands. B.J. told him “he shouldn’t do that” and asked “what [he was] doing.” When Young was “close to the top of [her] thigh,” he “stuck his fingers inside of [her] vagina” in “one aggressive motion,” using his right hand while his left hand remained on B.J.’s thigh. He moved her underwear around in her shorts and penetrated her vagina a “few” times.

B.J. was “[s]haking,” “crying,” and unable to speak. Although she managed to “to scoot back enough” to “get his fingers out from inside” of her, she did not push him off, scream, or say anything because she “was scared that he would hurt [her] more” and she was “trying to figure out a way to get out of the situation without being hurt.”

After his hand was out of her vagina, Young stood over her with his hands on her thighs, then leaned over and tried to kiss her. B.J. “leaned all of the way back into the corner of the sofa and turned [her] head.” Young kissed her cheek and then, using one hand, “forceful[ly]” pulled her shorts down “between [her] midcalf an[d] ankles” while he held her thigh. He started to lick her vagina; B.J. was “scared” and unable to speak. B.J. was finally able to tell him she was “uncomfortable.” But with both hands now on her thighs, he continued licking her vagina and then put his tongue inside her vagina.

B.J. tried to reposition herself and “make it where [Young’s] head [was no longer] between [her] legs.” She was “shocked,” “scared,” and “worried that he was going to hurt

[her],” and could “never forget how he looked” at her, as if he were “staring through” her. She was “shaking and crying.”

When he let her go, she “stood up to pull up [her] pants” and said that she wanted to leave. In response, Young stood up and “took his penis out of his pants.” B.J. said, “No. We shouldn’t have sex.” Young “kept pulling his pants down,” and B.J. kept saying that she did not “want to do this.” Stroking his penis, he asked if he could “finish in front of [her].” She said no. Young “put[] his penis back in his pants.”

When she tried to leave, the office door was locked and Young stood in front of the door. He asked B.J. if she “was seeing anybody,” and said that they “should keep this between” themselves. He said he “could probably give [her] some hours at his job.” Young repeatedly asked B.J. if he could see her again. B.J. finally “just told him that [she] would see him again,” although she had no intention of doing so, because she was afraid that he “wouldn’t let [her] leave.” He then let her leave and followed her to her car, and kept “trying to have a conversation” about working additional hours. She responded vaguely but did not engage in the conversation.

B.J. immediately called Henry Reaume, the friend she had planned to meet, and told him that she had “just been sexually assaulted.” She then called her step-father, Chris Lazar, a Virginia Beach police officer, and told him that she had been sexually assaulted. B.J. drove to meet her mother, where Lazar was also waiting for her. After briefly describing the assault to her mother, they immediately reported the assault to Virginia Beach Police Detective Jacqueline Savage. After an interview, B.J. and her mother went with Savage to Chesapeake Forensic Specialists, where B.J. underwent a forensic sexual assault examination (“SANE exam”). During the SANE exam, the forensic nurse found a “brown substance, like a leafy material, consistent with smokeless tobacco or dip” in B.J.’s vagina. The evidence kit (PERK) was

completed and given to Savage. B.J. was 5'6" tall and weighed 135 pounds on the day of the assault; Young was 6'2" tall and weighed 260 pounds.

Detective Savage executed a search warrant for Young's DNA, collected a buccal swab, and submitted it, with B.J.'s PERK evidence, to the Department of Forensic Science (DFS). Savage also executed a search warrant for Young's business for surveillance video and things "relating to smokeless tobacco." The search yielded a "spit bottle"⁶ on Young's desk in his office. The Warrant Fugitive Unit arrested Young on the same day as the search and charged him with object sexual penetration and forcible sodomy.

Before trial,⁷ Young moved to exclude Aimee Stockenstroom's expert testimony on trauma responses and the effect of trauma on memory. He argued that her testimony was irrelevant under the Virginia Rules of Evidence, was "not helpful to the jury in understanding whether the alleged offense occurred," and its probative value would be substantially outweighed by the danger of unfair prejudice and jury confusion. Young also argued that Stockenstroom's testimony "on the effects of trauma on the brain" went "to the ultimate issue by affirming [B.J.'s] credibility" and that as a clinical social worker, she was not qualified to testify about brain physiology. After a hearing, the trial court denied the motion.

At trial,⁸ B.J. recounted her acquaintance with Young, their short-lived work arrangement, and the details of the assault. She never consented to Young penetrating her vagina with his tongue or his fingers, and Young never asked to do so. She chose to retrieve her paycheck in person because she was skeptical that Young would actually "send it" to her.

⁶ A spit bottle is used when using smokeless chewing tobacco.

⁷ Young does not challenge the forcible sodomy conviction on appeal. The motion was filed and heard before the first trial.

⁸ An earlier trial on the same charges ended in a mistrial.

Schneider was surprised when B.J. was hired because the company was “letting people go because [it] couldn’t afford the payroll,” and there was already an employee and a service that answered the after-hours calls. She said that new hires typically completed paperwork in a “meeting room” in the office and that she had never observed a new hire doing so in Young’s office. Although Young told Schneider that he planned to “let [B.J.] go” after two days of work, he did not. Schneider said that she or Rhonda typically give terminated employees their checks and that it was a “sixty-second process,” which involved the terminated employee entering the lobby, signing two pieces of paperwork, taking their check, and leaving. She had never seen Young handle a termination. Schneider added that Young’s office door had a “punch code” that no one in the office knew. Another employee said that there was no master key to Young’s office.

Nurse examiner Jennifer Knowlton, who conducted B.J.’s forensic examination, testified as an expert in sexual assault, examination, and injury. Knowlton made “no injury findings” during B.J.’s exam, which was not unexpected in oral penetration but there “sometimes” is injury in cases involving digital penetration. Knowlton recovered a piece of debris from B.J.’s clitoral hood, which was submitted with the PERK evidence.

Dr. Lauren Thonesen, a forensic scientist at DFS, testified as an expert in forensic biology. She determined that Young could not be eliminated as a contributor to the DNA profiles developed from the PERK swabs from B.J.’s perianal and buttocks area, her vaginal and cervical area, and her thighs and external genitalia.

Aimee Stockenstroom, a licensed clinical social worker, was qualified⁹ at trial as an expert in trauma responses and the impact of trauma on memory. She testified that traumatic

⁹ Noting that it had previously heard Young’s arguments, the trial court overruled his objection.

events overwhelm a person's central nervous system and the brain "disengage[s]" the prefrontal cortex of the brain, where "language is held" and "high-order thinking" such as "problem-solving and logic" occurs. She opined that responses to sexual assault generally take the form of "more submissive, polite, passive habits or behaviors," not a typical fight-or-flight response. Stockenstrom explained that victims can experience a "detect freeze," characterized by the cessation of movement and thinking, that lasts a couple of seconds, and which can develop as a "shock freeze" of variable length during which a person "is just kind of frozen." Stockenstrom stated that some victims cannot process the trauma and determine their best response. She added that a victim's failure to cry out during a sexual assault is a common response and that the brain "super-encod[es]" memories of the "central details" of the trauma.

Young testified in his defense. He said that he offered B.J. a job because the company's nighttime customer service representative was "resigning" and needed to be replaced. Young thought B.J. had "a nice body" and he was attracted to her. He only employed B.J. for four days because a consulting firm he had hired to help the company "become more profitable" told him to fire her. According to Young, he invited her into his office to explain to her why he had to terminate her employment and personally give her the check because she was upset when he fired her. Young said he had used chewing tobacco that morning and that he had remnants of tobacco left in his mouth.

Young admitted that he was "turned on" when he offered to massage B.J.'s thighs. He did not deny massaging B.J.'s thighs, but claimed that she had said that her "thighs were sore" from a workout and would "love" a massage. In his estimation, B.J. was "completely comfortable" and "having a full-on conversation" with him throughout. He stated that he noticed that "part of her private part was hanging out" of her shorts and he thought she had exposed her vagina to him intentionally to "get[] [his] attention." He said that she never told him to stop the

massage, and replied “yes” when he asked if “she was good” as he moved “toward the middle of her thigh.” Young denied that B.J. was crying and her leg was shaking.

Young denied taking off B.J.’s shorts or moving his hand up B.J.’s shorts and inserting his fingers into her vagina. He testified that B.J. was “[c]ompletely normal” as he touched her vagina “on the outside” and that she was “flowing in that area.” Young said that B.J. removed her own shorts and underwear and that he performed oral sex on her until she “climaxed.” He acknowledged that he did not seek her consent but that she gave no indication for him to stop. Young denied that B.J. was crying or shaking and denied that his tongue went inside of B.J.’s vagina during oral sex. But when asked if “that’s ultimately how that piece of chewing tobacco was left in [B.J.’s] vagina,” Young replied, “Yes.”

After he had performed oral sex on B.J., Young “felt like it was [his] turn” and began to unzip his pants. But when B.J. stated, “[w]e shouldn’t have sex,” he “stopped.” Young denied asking if he could masturbate in front of her or preventing her from leaving his office. When he asked to see her again on Friday, she said yes. He said he walked B.J. to the parking lot because he “wanted to be a gentleman” after their “sexual encounter.” Young said that B.J. “ask[ed] for her job back” and that he replied that the consulting firm would not “let him do that.”

Young claimed that “thirty or forty SWAT team members with bulletproof vests” were present when he was arrested and that they placed “machine guns to [his] head.” He said that officers came out of “the bushes” and that “dozens” of officers surrounded him. The Commonwealth introduced body-worn camera footage of the arrest, which showed only about six officers participating in the arrest process; no one pointed a gun at Young.

At the close of all the evidence, Young moved to strike. He argued that B.J.’s testimony that he penetrated her vagina with his fingers was “wholly incredible.” He also argued that the evidence was insufficient to show that his actions were against B.J.’s will because “there was no

act of resistance,” no evidence that he used force beyond the force “inherent in the sexual act,” and no evidence that he accomplished the sexual act through intimidation. The trial court denied the motion, finding that the “evidence was sufficient for the case to go to the jury.” After closing arguments and jury instructions, the jury convicted Young of object sexual penetration and forcible sodomy.

At the sentencing hearing, the trial court considered the pre-sentence reports and discretionary sentencing guidelines. By final order entered on April 2, 2025, it sentenced Young to 60 years’ incarceration, with 45 years suspended. Young timely appealed.

ARGUMENT

I. The trial court properly denied Young’s motion to strike.

A “motion to strike challenges whether the evidence is sufficient to submit the case to the jury.” *Linnon v. Commonwealth*, 287 Va. 92, 98 (2014) (quoting *Lawlor v. Commonwealth*, 285 Va. 187, 223 (2013)). “In the context of a jury trial, a trial court does ‘not err in denying [a] motion to strike the evidence [when] the Commonwealth present[s] a prima facie case for consideration by the fact finder.’” *Vay v. Commonwealth*, 67 Va. App. 236, 249 (2017) (alterations in original) (quoting *Hawkins v. Commonwealth*, 64 Va. App. 650, 657 (2015)). Whether the evidence is sufficient to prove each element of a crime “is a factual finding, which will not be set aside on appeal unless it is plainly wrong.” *Id.* (quoting *Linnon*, 287 Va. at 98).

“When an appellate court reviews the sufficiency of the evidence underlying a criminal conviction, its role is a limited one.” *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024). “The judgment of the trial court is presumed correct and will not be disturbed unless it is ‘plainly wrong or without evidence to support it.’” *Pijor v. Commonwealth*, 294 Va. 502, 512 (2017) (quoting Code § 8.01-680). “Thus, ‘it is not for this [C]ourt to say that the evidence does or does not establish [the defendant’s] guilt beyond a reasonable doubt because as an original proposition

it might have reached a different conclusion.”” *Commonwealth v. Barney*, 302 Va. 84, 97 (2023) (alterations in original) (quoting *Cobb v. Commonwealth*, 152 Va. 941, 953 (1929)).

The only relevant question for this Court on review “is, after reviewing the evidence in the light most favorable to the prosecution, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.* (quoting *Sullivan v. Commonwealth*, 280 Va. 672, 676 (2010)). “If there is evidentiary support for the conviction, ‘the reviewing court is not permitted to substitute its own judgment, even if its opinion might differ from the conclusions reached by the finder of fact at the trial.’” *McGowan v. Commonwealth*, 72 Va. App. 513, 521 (2020) (quoting *Chavez v. Commonwealth*, 69 Va. App. 149, 161 (2018)).

A defendant is guilty of inanimate or animate object sexual penetration if he “penetrates the labia majora . . . of a complaining witness . . . and the act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness.” Code § 18.2-67.2(A)(2). Young argued that there was insufficient evidence that the object sexual penetration occurred against B.J.’s will, by force or intimidation. The record does not support Young’s arguments.

“The Code itself does not define force in the context of sexual offenses.” *Nelson v. Commonwealth*, 73 Va. App. 617,624 (2021). Actual force requires proof of more than just “the force required to accomplish” the criminal act. *Bondi v. Commonwealth*, 70 Va. App. 79, 88 (2019) (quoting *Sabol v. Commonwealth*, 37 Va. App. 9, 16 (2001)). The actual “force used by the defendant must be sufficient to accomplish the act as well as to overcome the will of the victim.” *Id.* (quoting *Wactor v. Commonwealth*, 38 Va. App. 375, 381 (2002)); *see also id.* at 89 (reasoning that evidence of the victim’s fear supports a finding of force); *Clark v. Commonwealth*, 30 Va. App. 406, 410 (1999) (finding evidence sufficient to prove force where

the defendant “would lie on top of [the victim] at night while touching her intimate parts”). “The issue of whether the crime was committed by ‘force, threat or intimidation’ is a question of fact.” *Bondi*, 70 Va. App. at 88.

Proof of sexual abuse may be established solely on the uncorroborated testimony of the victim if it is not inherently incredible. *See Nobrega v. Commonwealth*, 271 Va. 508, 519 (2006); *Corvin v. Commonwealth*, 13 Va. App. 296, 299 (1991). Indeed, a victim’s uncorroborated testimony alone may be sufficient to convict a defendant of object sexual penetration. *Fisher v. Commonwealth*, 228 Va. 296, 299 (1984).

Here, the record indicates that Young lured B.J. into his office to collect her paycheck. He joined her on the couch and began massaging her right leg with both hands. Over B.J.’s protests, Young penetrated her vagina with his finger in an aggressive motion and restrained her movement by pressing down her other thigh. He moved her underwear around in her shorts and penetrated her vagina a “few” times. After B.J. moved enough to get Young’s hand out of her vagina, he held her down on the couch and tried to kiss her. Then, he forcefully pulled her shorts and underwear down and began licking her vagina before penetrating it with his tongue. By maintaining a grip on B.J.’s thigh while digitally penetrating her vagina, and by forcefully removing B.J.’s shorts to orally penetrate her, Young exerted force to overcome B.J.’s will. *Bondi*, 70 Va. App. at 89; *Clark*, 30 Va. App. at 410.

Moreover, B.J. testified that she was fearful that Young would hurt her during the encounter, accounting for any possible lack of initial resistance. *See Bondi*, 70 Va. App. at 88. Throughout the assault, B.J. was shaking and crying, shocked, scared, and worried that he was going to hurt her. B.J. tried to get away from him but he held her down on the couch. Despite her fear, she turned her face away when Young tried to kiss her, and she repositioned herself to resist Young’s digital and oral assault. “[T]aking into consideration the relative physical

condition of the participants and the degree of force manifested,” *id.* at 88 (quoting *Wactor*, 38 Va. App. at 382), a rational factfinder could conclude that this act of resistance was all B.J. could muster under the circumstances, *see Snyder v. Commonwealth*, 220 Va. 792, 796 (1980), and that Young’s forcible actions overbore her will.

Given the evidence that Young lured B.J. to his office to collect a paycheck, where he then used his weight to restrain B.J. to “aggressively” penetrate her both digitally and orally, a rational factfinder could conclude that Young used force to overcome B.J.’s will for purposes of Code § 18.2-67.2(A)(2). *See Bondi*, 70 Va. App. at 89; *Clark*, 30 Va. App. at 410.

II. We cannot reach the merits of Young’s challenge to the Commonwealth’s expert testimony without a transcript.

In Young’s second assignment of error, he argues the trial court erred by denying his motion *in limine* to exclude the Commonwealth’s expert testimony. We cannot reach this challenge on the merits.

“The transcript of any proceeding is a part of the record when it is filed in the office of the clerk of the trial court within 60 days after entry of the final judgment.” Rule 5A:8(a). “When the appellant fails to ensure that the record contains transcripts or a written statement of facts necessary to permit resolution of appellate issues, any assignment of error affected by such omission will not be considered.” Rule 5A:8(b)(4)(ii). “If . . . the transcript [or statement of facts] is indispensable to the determination of the case, then the requirement for making the transcript [or statement of facts] a part of the record on appeal must be strictly adhered to.” *Bay v. Commonwealth*, 60 Va. App. 520, 528 (2012) (alterations in original) (quoting *Turner v. Commonwealth*, 2 Va. App. 96, 99 (1986)). “This Court has no authority to make exceptions to the filing requirements set out in the Rules.” *Shiembob v. Shiembob*, 55 Va. App. 234, 246 (2009) (quoting *Turner*, 2 Va. App. at 99). “Whether the record is sufficiently complete to

permit our review on appeal is a question of law subject to our *de novo* review.” *Bay*, 60 Va. App. at 529.

A transcript is indispensable when it is necessary to determine whether an appellant has preserved an argument on appeal. *Agnew v. United Leasing Corp.*, 80 Va. App. 612, 623 n.5 (2024). In such cases, “we have no way of knowing precisely the issues raised, waived, or rejected below.” *Town of Iron Gate v. Simpson*, 82 Va. App. 38, 50 (2024).

Although the record contains Young’s motion and the Commonwealth’s response, Young’s transcript of the motion *in limine* hearing was not timely filed. The final order was entered on April 2, 2025. The transcript of the hearing he challenges was due on June 2, 2025.¹⁰ It was filed on June 3, 2025. Young did not move this Court for an extension of time to file the transcripts, nor did he file a statement of facts in lieu of a transcript. The question of whether we can reach the merits of his challenge thus turns on whether we can decide the issue solely on the pleadings.

We cannot. Young raises different arguments in his pleadings before the trial court and on appeal to this Court. Before the trial court, he relied on Virginia Rules of Evidence 2:401, 2:403, 2:702(a)(ii), and 2:704 to argue that Stockenstroom’s testimony was irrelevant, unfairly prejudicial, and spoke to an issue of ultimate fact. On appeal, he makes different arguments, relying on other rule provisions that he did not raise in his pleadings. He argues Stockenstroom’s testimony is “generalized” and “speculative” in violation of Rules 2:703(b) and 2:702(b). Based solely on the pleadings, we cannot say that Young ever presented his arguments on appeal to the trial court. Thus, a transcript or written statement of the evidentiary hearing is indispensable to determine whether Young’s challenge is properly before this Court. *See* Rule

¹⁰ *See* Code § 1-210(B).

5A:18 (“No ruling of the trial court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling.”).

Given that a transcript or written statement of facts of the evidentiary hearing is indispensable to determine whether Young’s challenge is properly before this Court, we cannot reach this issue on the merits. *See Bay*, 60 Va. App. at 528.

CONCLUSION

Accordingly, we affirm the trial court’s judgment.

Affirmed.