

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TROY ALLEN HOWARD,

Defendant-Appellant.

UNPUBLISHED

September 10, 1996

No. 184513

LC No. 16944

Before: Michael J. Kelly, P.J., Hoekstra and E.A. Quinnell,*JJ.

MEMORANDUM

Defendant appeals by right his jury trial conviction of third-degree criminal sexual conduct using force or coercion (CSC III), MCL 750.520d; MSA 28.788(4)(1)(b). He was referred to the Department of Social Services. We affirm.

Defendant was originally charged with two counts of CSC III and was acquitted on one. The evidence presented regarding both counts consisted in large part only of complainant's testimony and defendant's rebuttal testimony. Defendant argues that, since the jury found insufficient evidence to convict on the first count, it was inconsistent for the jury to find sufficient evidence to convict on the second count. We review the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found the evidence sufficient to prove the essential elements of the crime beyond a reasonable doubt. *People v Medlyn*, 215 Mich App 338, 340; _NW2d_ (1996). We note that the main thrust of defendant's argument does not challenge the sufficiency of complainant's testimony regarding the second count if the jury was to believe it, but merely asserts that the jury should not have believed it, consistent with his acquittal on the first count. We disagree.

Jury verdicts rendered on the several counts of a multi-count indictment need not be consistent nor may an acquittal on one count and conviction on another serve as a basis for overturning the conviction. *People v Vaughn*, 409, 510; 425 NW2d 460 (1988). Moreover, the verdicts rendered in this case are not inconsistent. For example, the jury simply could have believed complainant's testimony

*Circuit Judge, sitting on the Court of Appeals by assignment.

regarding her lack of consent as to one count and not the other. Juries are not required to explain their decisions. *Id.*

Affirmed.

/s/ Michael J. Kelly
/s/ Joel P. Hoekstra
/s/ Edward A. Quinnell