

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL BRETT OSBORNE,

Defendant-Appellant.

UNPUBLISHED

November 19, 1996

No. 188006

LC No. 94-010011

Before: Gribbs, P.J., and MacKenzie and Griffin, JJ.

PER CURIAM.

Defendant appeals by right his jury trial conviction for second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). Defendant was sentenced five to fifteen years in prison. We affirm.

Defendant argues on appeal that the evidence presented at the trial level was insufficient to support his conviction. We disagree. In determining whether sufficient evidence has been presented to sustain a conviction, the Court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 516 n 6; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Hampton*, 407 Mich 354, 366; 285 NW2d 284 (1979), cert den 449 US 885; 101 S Ct 239; 66 L Ed 2d 110 (1980).

The offense of second-degree criminal sexual conduct requires proof that: (1) the defendant intentionally touched the complainant's genital area, including her inner thigh, or the clothing covering that area, (2) this was done for sexual purposes or could reasonably be construed as having been done for sexual purpose, and (3) the complainant was under thirteen years old at the time of the alleged act. *People v Vandervliet*, 444 Mich 52, 76; 508 NW2d 114 (1993); *People v Fisher*, 77 Mich App 6, 13; 257 NW2d 250 (1977); CJI2d 20.2; CJI2d 20.3. Specific intent need not be proven as second-degree criminal sexual conduct is a general intent crime.

Viewing the evidence in a light most favorable to the prosecution, we find that the prosecution presented sufficient evidence of an intentional touching of the genital area of the complainant, for the

purpose of sexual gratification, when the complainant was under the age of thirteen. Defendant intentionally stuck his penis through a hole in a blanket which covered his naked body, pulled the complainant on top of him, pulled down her underwear, put one hand over her mouth and one hand over her back and proceeded to pull her back and forth on top of him. Defendant ejaculated on the complainant's inner thigh and told her if she told anyone what had happened, he would hurt her. The complainant was ten years old at the time that this incident occurred. A rational trier of fact could find beyond a reasonable doubt, based upon these facts, that defendant intentionally touched the complainant's genital area with the purpose of sexual gratification.

Affirmed.

/s/ Roman S. Gibbs

/s/ Barbara B. MacKenzie

/s/ Richard Allen Griffin