

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEONARD SHELDON,

Defendant-Appellant.

UNPUBLISHED

December 13, 1996

No. 184500

LC No. 94-010833

Before: Fitzgerald, P.J., and Cavanagh and N.J. Lambros,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for third-degree criminal sexual conduct, MCL 750.520d(1)(b); MSA 28.788(4)(1)(b). Defendant was sentenced to one to fifteen years in prison. We affirm.

Defendant's first claim on appeal is that the trial court's findings of fact on the element of penetration were insufficient. MCR 2.517(A) requires the trial court to make brief, definite, and pertinent findings of fact. The court rule is satisfied where it is manifest that the trial court was aware of the factual issues and correctly applied the law. *People v Porter*, 169 Mich App 190, 193; 425 NW2d 514 (1988).

Our review of the trial court's findings persuades us that it was aware of the factual issues and correctly applied the law. Defendant claims that the trial court erred in not addressing the evidence regarding defendant's ability to commit the charged offense. However, while defendant did present medical evidence that he was impotent, the tests underlying this evidence were not performed until December 1994. Accordingly, the evidence of defendant's impotence was not relevant to whether defendant had the ability to rape the complainant in May 1994.

Defendant next argues that the trial court went outside the record in making its findings of fact. It is well established that the trial court must arrive at its decision in a bench trial based upon the

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

evidence in the case. The court may not go outside the record in determining guilt. *People v Simon*, 189 Mich App 565, 568; 473 NW2d 785 (1991).

After reviewing the record, we find no error requiring reversal. Factfinders may and should rely on their own common sense and experience in evaluating evidence. *Id.* at 567. Questions of the credibility of the witnesses are for the trier of fact. *People v Velasquez*, 189 Mich App 14, 16; 472 NW2d 289 (1991). The trial court was entitled to consider the complainant's demeanor. *People v Dye*, 431 Mich 58, 64-65; 427 NW2d 501 (1988). The meaning of complainant's calendar notation, noting the day that she was raped and identifying defendant as the rapist, was explained by both complainant and her daughter-in-law during their testimony. Accordingly, we do not find that the trial court went outside the record in determining defendant's guilt.

Defendant's final claim on appeal is that the prosecution failed to present sufficient evidence to sustain his conviction. When ascertaining whether sufficient evidence was presented at trial to support a conviction, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). Circumstantial evidence and reasonable inferences arising therefrom may be sufficient to prove the elements of a crime. *People v McKenzie*, 206 Mich App 425, 428; 522 NW2d 661 (1994).

The complainant testified that defendant "tore" her between the legs, and otherwise described her attack in precise and vivid detail. The complainant's physician, who examined complainant about ten days after the rape, found visible abrasions and bruising that he testified were consistent with penetration. Although defendant testified that he told police that he had been impotent for four or five years, but also testified that he had never told his general physician about the problem. Medical evidence of defendant's claimed impotence was not documented until seven months after the attack. Viewing this evidence in the light most favorable to the prosecution, we find it sufficient to support defendant's conviction.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Mark J. Cavanagh
/s/ Nicholas J. Lambros