

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ULICE CHARLES YOUNG,

Defendant-Appellant.

UNPUBLISHED

November 25, 1997

No. 198425

Calhoun Circuit Court

LC No. 96-000622 FC

Before: Jansen, P.J., and Fitzgerald and Young, JJ.

MEMORANDUM.

Defendant was convicted by jury of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), and received an enhanced sentence of fifteen to thirty years' imprisonment, reflecting his status as a second offender, MCL 769.10; MSA 28.1082. Defendant appeals as of right. We affirm.

The prosecutor presented sufficient evidence to establish penetration beyond a reasonable doubt in light of the victim's testimony that defendant inserted his penis into her vagina. MCL 750.520h; MSA 28.788(8); *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Smith*, 149 Mich App 189, 195; 385 NW2d 654 (1986); *People v Norwood*, 70 Mich App 53, 57; 245 NW2d 170 (1976).

The trial court did not abuse its discretion when it admitted evidence of prior sexual acts between the victim and defendant. Under the circumstances of this case, the acts between defendant and the victim were admissible as part of the principal transaction necessary to weigh the credibility of the victim's testimony regarding the principal transaction. *People v DerMartzex*, 390 Mich 410, 414-415; 213 NW2d 97 (1973); *People v Dreyer*, 177 Mich App 735, 737-738; 442 NW2d 764 (1989). Moreover, the danger of unfair prejudice did not outweigh the probative value of the evidence where the prior bad acts evidence was not presented in a manner that would give rise to a prohibited inference concerning defendant's character and where the evidence was powerfully probative of a primary issue in dispute, that being the victim's credibility. MRE 403; *People v VanderVliet*, 444 Mich 52, 75; 508 NW2d 114 (1993).

Affirmed.

/s/ Kathleen Jansen

/s/ E. Thomas Fitzgerald

/s/ Robert P. Young, Jr.