

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE WALKER,

Defendant-Appellant.

UNPUBLISHED

October 22, 2002

No. 234904

Wayne Circuit Court

LC No. 00-006438

Before: Saad, P.J., and Smolenski and Owens, JJ.

MEMORANDUM.

Defendant was convicted in a bench trial of second-degree criminal sexual conduct (CSC II), MCL 750.502c(1)(a) (sexual contact with a person under the age of thirteen). He was sentenced as a third habitual offender, MCL 769.11, to 8 to 20 years' imprisonment. We affirm.

Defendant argues that there was insufficient evidence to convict him of CSC II. Specifically, he argues that his confession, in which he stated that he had sexual contact with a four-year-old child, was inconsistent with the evidence presented at trial, so his confession should be ignored. Defendant also argues that because the medical doctor who examined the child found no evidence of the acts defendant said he did, he could not be convicted beyond a reasonable doubt.

When reviewing the sufficiency of the evidence presented at trial, we 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 proved beyond a reasonable doubt." *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999). This standard applies to bench trials. *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001). Where evidence conflicts, the conflict must be resolved in the prosecution's favor. *Id.*

CSC II requires that a person engage in sexual contact with a person under the age of thirteen. MCL 350.520c(1)(a). There is no dispute that the four-year-old victim was under the age of thirteen.

The evidence established that after the alleged assault, the child related the events to people in the house, her grandmother, and medical personnel, consistently telling the same story. The fact that the child did not sustain visible injuries was consistent with the type of assault she reported. The child tested positive for a sexually transmitted disease, and defendant reported

having symptoms of the same sexually transmitted disease to jail personnel several days later. Although defendant tested negative for this disease three days after reporting his symptoms, testimony established that if defendant had been given antibiotics at the initial examination, he would have tested negative within twelve hours. Defendant also confessed to sexually molesting the child.

Defendant's contention that his confession should not be considered because it conflicted with testimony presented at trial is meritless. The confession was admissible under MRE 801(2)(A). This Court should not interfere with the trier of facts' role of determining the weight of evidence. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 478, modified on other grounds 441 Mich 1201 (1992). Furthermore, defendant's assertion that his confession was coerced is unsupported by the record.

Viewing the facts in the light most favorable to the prosecution and resolving conflicts in evidence in the prosecution's favor, a reasonable trier of fact could have concluded, beyond a reasonable doubt, that defendant had sexual contact with a person under the age of thirteen, and thus was guilty of CSC II.

Affirmed.

/s/ Henry William Saad
/s/ Michael R. Smolenski
/s/ Donald S. Owens