

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBIN BAKER,

Defendant-Appellant.

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UNPUBLISHED

June 11, 1999

No. 206400

Clinton Circuit Court

LC No. 97-006225 FH

Before: Griffin, P.J., and Wilder, and R. J. Danhof\*, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of sentence issued after a jury convicted him of three counts of first-degree criminal sexual conduct (CSC I), MCL 750.520b(1)(a) & (b); MSA 28.788(2)(1)(a) and (b), two counts of second-degree criminal sexual conduct (CSC II), MCL 750.520c(1)(a) and (b); MSA 28.788(3)(1)(a) and (b), and one count of distributing obscene matter to a minor, MCL 722.675(1); MSA 25.254(5)(1). Defendant was sentenced to concurrent terms of imprisonment of twenty-five to forty years for each CSC I conviction, ten to fifteen years for each CSC II conviction, and sixteen months to two years for distributing obscene matter to a minor conviction. We affirm.

Defendant first argues that the trial court erred in denying his motion for a directed verdict at the close of the prosecutor's case in chief because no evidence had been presented to prove the CSC II charge in count V of the information. When reviewing a trial court's ruling on a motion for a directed verdict, we must view the evidence presented by the prosecutor up to the time the motion was made in a light most favorable to the prosecutor to determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Crawford*, 232 Mich App 608, 615-616; \_\_\_ NW2d \_\_\_ (1998). The elements of CSC II are (1) sexual contact with a person at least thirteen but less than sixteen years old, (2) who resides in the same household as the defendant or has a relationship by blood or affinity to the fourth degree, or over whom the defendant has a position of authority. Section 520c(1)(b). The victim was defendant's daughter and testified that

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

when she was about thirteen or fourteen years old, defendant touched her breasts. This testimony established the elements of CSC II, and the trial court therefore correctly denied defendant's motion.

Defendant next argues that there was insufficient evidence presented at trial to support his conviction for distributing obscene matter to a minor. Again, we view the evidence in a light most favorable to the prosecutor to determine whether a rational trier of fact could find that the elements of the crime were proved beyond a reasonable doubt. *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998). "A person is guilty of distributing obscene matter to a minor if that person . . . [k]nowingly exhibits to a minor a sexually explicit performance that is harmful to minors." § 675(1)(b). The victim testified that defendant showed her pornographic movies when she was about ten years old. This testimony was sufficient to establish the elements of the charged crime. Defendant's claim essentially involves challenges to the victim's credibility, and "this Court should not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses." *Warren, supra* at 343. The evidence presented at trial was sufficient for a rational trier of fact to find defendant guilty beyond a reasonable doubt of distributing obscene matter to a minor.

Defendant raises two further issues regarding an instruction to the jury during voir dire and a juror's failure to disclose during voir dire that he was a former employer of the trial judge while the judge was in college. Because defendant failed to present these issues to the trial court, they are unpreserved and our consideration of them is limited to whether relief is necessary to avoid manifest injustice. *People v Gadomski*, 232 Mich App 24, 30; \_\_\_ NW2d \_\_\_ (1998). We are convinced that no manifest injustice resulted from either the jury instruction or the juror's failure to disclose his prior relationship with the judge because the jury instructions, taken as a whole, fairly presented to the jury the issues tried and sufficiently protected defendant's rights, *People v Bartlett*, 231 Mich App 139, 143-144; 585 NW2d 341 (1998), and defendant has failed to demonstrate any bias or prejudice resulting from the complained-of juror's presence on the jury.

Affirmed.

/s/ Richard Allen Griffin

/s/ Kurtis T. Wilder

/s/ Robert J. Danhof