

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AMIN ALI JACKSON,

Defendant-Appellant.

UNPUBLISHED

April 20, 2006

No. 260315

Wayne Circuit Court

LC No. 04-004696-01

Before: Murphy, P.J., and O’Connell and Murray, JJ.

PER CURIAM.

Defendant was convicted by a jury of two counts of criminal sexual conduct in the first degree (CSC I), the victim being under 13 years of age, MCL 750.520b(1)(a). The trial court sentenced defendant to concurrent terms of seven to fifteen years in prison. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant asserted that defendant penetrated her vagina and anus with his finger. At the time of the incidents, complainant was five years old. At the preliminary examination, complainant’s mother testified that on May 26, 2003, her aunt took complainant to a party. The mother testified that the following day, she spoke with complainant regarding an incident at the party that involved defendant. Complainant testified that while she was at the party, she went upstairs to use the bathroom, and saw a man lying on the floor in a bedroom. Complainant stated that the man’s name was “Amini,” but when asked if she saw the man in the courtroom, complainant did not respond. Complainant stated that the man approached her, pulled down her panties, and stuck his finger into her “privacy” and “bottom.” She stated that the man she saw in the bedroom was the only other person upstairs.

Complainant’s cousin testified that during the party she went upstairs, and saw complainant’s reflection in a mirror, and complainant stared back at her. The cousin looked into a bedroom and saw defendant lying on the floor. The cousin asked complainant if defendant had touched her, and complainant answered in the negative. The cousin stated that complainant’s voice was “shaking.” She sent complainant downstairs. The cousin indicated that the following day, complainant spoke with her and complainant’s mother about the incident. The cousin did not know if anyone other than defendant was upstairs with complainant, but she did not hear or see any other person upstairs at that time.

Defense counsel opposed the motion for bindover, arguing that no testimony established that defendant committed the charged offenses. The trial court bound defendant over for trial on the CSC I charges, noting that complainant identified the man she encountered upstairs as “Amini,” and that other evidence established that defendant went by that name. Defendant later moved to quash the information, arguing that the district court abused its discretion by binding him over for trial because no evidence produced at the preliminary examination established that he committed the charged offenses. The trial court denied the motion.

At trial, the complainant, her mother, and her cousin testified consistently with their preliminary examination testimony. The mother explained that complainant had never met defendant before the party. She further stated that when she spoke with complainant about the party, complainant’s demeanor changed, and eventually complainant related the incidents that had occurred. Complainant identified the man who touched her as “Amin,” and indicated that no one other than her assailant was upstairs with her. Complainant again failed to identify defendant as her assailant, but indicated that the incident occurred just before her cousin came upstairs. The cousin stated that when she saw complainant upstairs, complainant looked “stunned.” The cousin added that defendant was lying on the floor nearby, looking at complainant and smiling.

Defendant moved for a directed verdict on the ground that no evidence had established that he was the person who committed the charged offenses. The trial court denied the motion, explaining that while the identification evidence was circumstantial, it was sufficient to take the case to the jury.

Jarrius Jackson, defendant’s brother, Christopher Clark, and Jeremiah Hall, defendant’s cousin, testified on defendant’s behalf. Jackson stated that during the party, he and Clark went upstairs. He saw defendant sleeping on a bed in a bedroom. According to Jackson, three boys were in another room playing video games. Jackson indicated that he did not see any girls upstairs. Jackson stated that defendant accompanied him downstairs, and that he saw complainant riding a bicycle at approximately noon. Clark also indicated that three boys were in another room playing video games while he was upstairs, but there were no girls upstairs during that time. Hall testified that defendant watched his children for him while he played football. Defendant testified that during the party he went to a bedroom to rest and fell asleep. After a time, he went downstairs with his brother, Jarrius. Defendant denied seeing or touching complainant at any time during the party. The jury found him guilty as charged.

Defendant first argues that the district court abused its discretion by binding him over for trial. We disagree. “If defendant [goes] to trial and [is] found guilty, any subsequent appeal [will] not consider whether the evidence adduced at the preliminary examination was sufficient to warrant a bindover.” *People v Yost*, 468 Mich 122, 124 n 2; 659 NW2d 604 (2003). Because defendant was found guilty in this case, he may only prevail on a claim that the evidence presented at trial was insufficient.

Defendant raises this issue as well, arguing that the evidence produced at trial was insufficient to establish his identity as the crime’s perpetrator beyond a reasonable doubt. We disagree. “[W]hen determining whether sufficient evidence has been presented to sustain a conviction, a 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, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). Under this standard of review, “a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Complainant’s credibility was for the jury to determine, and the jury was entitled to find complainant credible notwithstanding the lack of precision in her testimony. The jury was also entitled to reject entirely the testimony of Jarrius Jackson and Clark that they were upstairs, along with three boys playing video games, and no girls were present. The cousin’s positive identification of defendant as the individual laying on the bedroom floor while complainant stood shocked nearby, coupled with complainant’s testimony that her assailant, and only her assailant, was present upstairs with her just before her cousin appeared, supported the reasonable inference that defendant was the person who assaulted complainant. Therefore, the evidence produced at trial was sufficient to support defendant’s convictions of CSC I beyond a reasonable doubt.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O’Connell
/s/ Christopher M. Murray