

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOSEPHINE LINKER HART, JUDGE

DIVISION I

CACR06-957

September 5, 2007

BURLIE RAY BRITTON

APPELLANT

APPEAL FROM THE POPE COUNTY
CIRCUIT COURT
[NO. CR-05-402]

V.

HONORABLE JOHN S. PATTERSON,
CIRCUIT JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

A jury convicted appellant, Burlie Ray Britton, of three counts of rape, with his daughter as the victim in two of the counts. For his sole point on appeal, he argues that the circuit court erred in refusing to suppress statements he made to a deputy sheriff, as the statements were induced by false promises of leniency and consequently were involuntary. We affirm.

Appellant made three taped statements to Rowdy Sweet of the Pope County Sheriff's Office, one on August 12, 2005, and two on August 16, 2005. In sum, while appellant denied during the August 12 statement any sexual acts with his daughter, he admitted to the same during the August 16 statements. He asserts, however, that prior to the August 16

statements, Sweet indicated to him that he might receive probation if he confessed. In support of his assertion, he cites his own suppression-hearing testimony to that effect. In reply to appellant's argument, the State cites Sweet's suppression-hearing testimony that he never told appellant that he might receive probation instead of a jail sentence if he confessed to the crimes. In his bench ruling, the judge denied appellant's motion to suppress, stating that he did not "see anything in the nature of it that substantiates any claim of inducements or promises for these statements."

A statement induced by a false promise of reward or leniency is not a voluntary statement. *Branscum v. State*, 345 Ark. 21, 43 S.W.3d 148 (2001). Appellant testified that Sweet indicated he would receive probation if he confessed, and Sweet testified that he did not make such a promise. The matter of weighing the credibility of witnesses is left to the circuit court. *Id.* Accordingly, we cannot say that the circuit court erred in finding that appellant's statements were admissible.

Affirmed.

PITTMAN, C.J., and MILLER, J., agree.