

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2007*

**ALVIN GIROUX,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D06-2083

[May 9, 2007]

PER CURIAM.

The appellant was convicted of lewd and lascivious molestation of his stepdaughter by touching her vaginal area over her clothing. While he contends that the evidence was legally insufficient and required a judgment of acquittal, we disagree. Not only did the child and the mother see the appellant remove his hand from the child's clothing, but when confronted by the mother, he essentially admitted to the conduct. The evidence met the elements of the statute. See § 800.04(5)(a), Florida Statutes (2005) ("A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age . . . commits lewd or lascivious molestation."). Further, the question of whether the touching was committed lewdly or lasciviously is one of fact for the jury. See *Rosen v. State*, 940 So. 2d 1155 (Fla. 5th DCA 2006).

*Affirmed.*

WARNER, POLEN and HAZOURI, JJ., concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Martin Bidwill, Judge; L.T. Case No. 05-17887 CF10A.

Carey Haughwout, Public Defender, and Richard B. Greene, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Georgina Jimenez-Orosa, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***