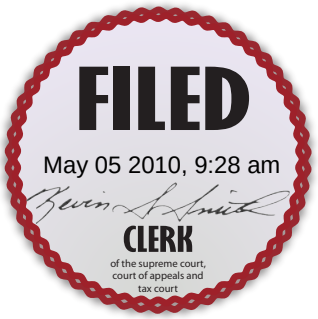

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IN THE COURT OF APPEALS OF INDIANA

KEVIN HADLEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 41A04-0903-CR-132
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE JOHNSON CIRCUIT COURT
The Honorable K. Mark Loyd, Judge
Cause No. 41C01-0804-FB-10

May 5, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Kevin Hadley appeals his convictions for two counts of class A felony child molesting.[1]

We affirm.

ISSUE

Whether there is sufficient evidence to support the convictions.

FACTS

A.B. met Hadley, a friend of A.B.'s father, in the summer of 2007. A.B. was eleven years old, and Hadley was forty-six years old. Hadley and A.B. started spending time together that summer; they went fishing several times, and Hadley would visit A.B. at home "most of the time every day." (Tr. 92). Hadley also gave A.B. several presents, including a video-gaming system, a football, a basketball, and a knife.

On September 8, 2007, Hadley took A.B. to the Johnson County Heartnut Festival, located in the Atterbury Fish and Wildlife Area (the "Wildlife Area"). After arriving at the festival on Hadley's moped, they "rode some rides," and Hadley bought A.B. a cheeseburger. (Tr. 99). They left the festival "[s]ometime in the evening time," when it started to rain. (Tr. 100).

Hadley and A.B. rode to a bridge within the Wildlife Area. After stopping, they walked under the bridge. As they stood under the bridge, Hadley "pulled [A.B.'s] pants down," (Tr. 102), and "put his mouth on [A.B.'s] penis." (Tr. 103). Hadley stopped after

[1] Ind. Code § 35-42-4-3.

"[a] few minutes." (Tr. 103). A.B. then pulled up his pants and walked back to the moped. Once it stopped raining, Hadley took A.B. home. Hadley threatened to "run over" A.B. if A.B. told anyone about what had transpired under the bridge. (Tr. 106).

Hadley and A.B. returned to the Wildlife Area the next day. They rode around on Hadley's moped but eventually pulled off the road and walked into the woods. Hadley then "pulled [A.B.'s] pants down" and "sucked on [A.B.'s] penis" for "[a] few minutes." (Tr. 109, 110). After A.B. pulled his pants back up, Hadley took his penis out of his pants and began to "mess[] with [it]," by "mov[ing] his hand back and forth on it" until "[s]tuff cam[e] out." (Tr. 110). Hadley asked A.B. to touch his penis. A.B. refused, after which Hadley "grabbed [A.B.'] hand and made [him] touch it." (Tr. 111). Hadley again threatened to run over A.B. if he told anyone what had occurred. They then returned to the festival, where they stayed until it got dark.

As Hadley and A.B. left the festival, they encountered A.B.'s mother; she was upset because A.B. was out late. Subsequently, A.B.'s mother began asking A.B. about his relationship with Hadley; initially, A.B. did not divulge what had happened the weekend of the festival because he "was afraid to." (Tr. 117). Several weeks later, however, A.B. told his mother that Hadley had molested him. A.B.'s mother subsequently reported the incidences to law enforcement.

On April 16, 2008, the State charged Hadley with four counts of class B felony child molesting. On May 12, 2008, the State filed an amended information, changing all

four counts to class A felony child molesting. On October 2, 2008, the State filed a motion to dismiss Counts III and IV, which the trial court granted on October 6, 2008.

The trial court commenced a two-day jury trial on October 7, 2008. The jury found Hadley guilty of the remaining two counts of class A felony child molesting. Following a sentencing hearing on November 6, 2008, the trial court sentenced Hadley to consecutive sentences of forty years on each count, for a total sentence of eighty years.

DECISION

Hadley asserts that there is insufficient evidence to support his convictions. Specifically, he maintains that his convictions must be set aside because "no scientific evidence was presented, there were no eye-witnesses, and all of the evidence presented was given by or derived directly from a child witness, A.B." Hadley's Br. at 3.

> When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted). A conviction of child molesting may rest solely upon the uncorroborated testimony of the alleged victim. *Baber v. State*, 870 N.E.2d 486, 490 (Ind. Ct. App. 2007), *trans. denied*.

Indiana Code section 35-42-4-3(a) provides, in relevant part, that a person at least twenty-one (21) years of age who, "with a child under fourteen (14) years of age, performs or submits to . . . deviate sexual conduct commits child molesting" as a class A felony. Under the facts of this case, deviate sexual conduct is an act involving "a sex organ of one person and the mouth or anus of another person[.]" I.C. § 35-41-1-9.

A.B. testified that on two separate occasions, Hadley pulled down A.B.'s pants and placed his mouth on A.B.'s penis. We find that the State presented sufficient evidence for the jury to find Hadley guilty of two counts of child molesting for having committed deviate sexual conduct. Hadley's claim to the contrary is merely an invitation to judge the credibility of the witness and to reweigh the evidence, which we will not do.

Affirmed.

BAKER, C.J., and CRONE, J., concur.