

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND EARL GRANSDEN,

Defendant-Appellant.

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UNPUBLISHED

March 12, 1999

No. 202884

Midland Circuit Court

LC No. 97-008219 FH

Before: Kelly, P.J., and Gribbs and Fitzgerald, JJ.

PER CURIAM.

Defendant Raymond Earl Gransden, appeals as of right from a judgment of sentence issued on April 18, 1997. Defendant, a second time habitual offender under MCL 769.10; MSA 28.182, was sentenced to two concurrent terms of fifteen to twenty-two and one-half years' imprisonment after a jury convicted him of two counts of second-degree criminal sexual conduct (CSC II) pursuant to MCL 750.520c(1)(a); MSA 28.788(3)(1)(a) for sexually assaulting his eight year-old daughter. We affirm.

Defendant first argues that the evidence was insufficient to convict him. There is no merit to defendant's claim. When reviewing the sufficiency of the evidence presented at trial this Court looks at the evidence in the light most favorable to the prosecutor. *People v Head*, 211 Mich App 205,210; 535 NW2d 563(1995). The evidence is sufficient when a rational factfinder could determine that the prosecutor proved every element of the crimes charged. *People v Daniels*, 192 Mich App 658, 665; 482 NW2d 176 (1991). Here, the child-victim's testimony unambiguously made out a prima facie case of two counts of CSC II by describing two different acts of touching by defendant from which the jury could rationally infer that the touching was intentional and "for the purpose of sexual arousal or gratification." MCL 750.520a(c); MSA 28.788(1)(c); MCL 750.520a(k); MSA 28.788(1)(k); *People v Fisher*, 77 Mich App 6, 13; 257 NW2d 250 (1977).

Defendant's real criticism of the evidence in the lower court appears to be that there was no eyewitness to the abuse who could corroborate the victim's allegations and, therefore, the victim's testimony alone was not sufficiently credible for the jury to properly convict. We disagree. The testimony of a victim need not be corroborated in prosecutions for sexual assault. MCL 750.520h; MSA 28.788(8). See also *People v Smith*, 149 Mich App 189, 195; 385 NW2d 654 (1986). This

Court has long held that the credibility of witnesses is a matter of weight, not sufficiency. Determinations of credibility are made by the jury which heard the testimony and observed the witnesses, and this Court will not substitute its judgment on this issue. *People v Scotts*, 80 Mich App 1, 9; 263 NW2d 272 (1977). Even if, as defendant contends, the victim was not wholly consistent in her description of the assaults, there was evidence that the jury, sitting as the trier of fact, could choose to believe and, if believed, would justify defendant's conviction. *People v Smith*, 205 Mich App 69, 71; 517 NW2d 255 (1994). The testimony by the victim was sufficient for the jury to convict defendant because it encompassed every element of the crimes charged.

Next, defendant argues that venue did not properly lie in Midland County. This Court reviews whether the trial court had proper venue in a criminal case de novo. *People v Fisher*, 220 Mich App 133, 145; 559 NW2d 318 (1996). Venue is a factual issue and the jury was permitted to make rational inferences and consider circumstantial evidence in finding that the crime was perpetrated in Midland County. See *People v Belanger*, 120 Mich App 752, 757; 327 NW2d 554 (1982). The victim not only described the assaults as taking place in her home, which was in Midland County, but the timing of the assaults strongly supports the conclusion that the offenses occurred there. See *People v Clark*, 164 Mich App 224; 416 NW2d 390 (1987). We find that the prosecutor proved venue beyond a reasonable doubt. *Fisher, supra*, 200 Mich App 145-146; MCL 767.45(1)(c); MSA 28.985(1)(c).

Defendant's final challenge is to the proportionality of his sentence. The Legislature established that individuals convicted of two or more felonies or attempted felonies may be sentenced to a prison term not to exceed one and one-half times the statutory maximum sentence. MCL 769.10; MSA 28.1082. Whether to impose an enhanced sentence on an habitual offender is within the sentencing court's discretion. *People v Bewersdorf*, 438 Mich 55, 59; 475 NW2d 231 (1991), aff'd in part, rev'd in part on other grounds 438 Mich 55 (1991). Defendant's sentence precisely meets the permitted maximum and minimum length based on the habitual offender enhancement and is presumptively proportionate because his actions, such as committing these offenses while on parole, indicate that he cannot conform his conduct to the law. MCL 750.520c(2); MSA 28.788(3)(2); *People v Hansford (After Remand)*, 454 Mich 320, 326; 562 NW2d 460 (1997); see also *People v James*, 191 Mich App 480, 481-482; 479 NW2d 16 (1991).

Affirmed.

/s/ Michael J. Kelly

/s/ Roman S. Gibbs

/s/ E. Thomas Fitzgerald