

STATE OF MICHIGAN
COURT OF APPEALS

In re ALLEN KING, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALLEN KING, Minor,

Defendant-Appellant.

UNPUBLISHED

April 21, 2000

No. 205559

Wayne Circuit Court

Family Division

LC No. 93-306860

Before: Collins, P.J., and Neff and Smolenski, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of criminal sexual conduct in the first degree (CSC I), MCL 750.520b; MSA 28.788(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant, a juvenile in the custody of the Family Independence Agency, was charged as a juvenile with two counts of CSC I. At the delinquency adjudication complainant testified that he was housed with defendant and another youth at a juvenile center. He stated that defendant and the other youth beat him, forced him to perform fellatio, and urinated on his body and in his mouth. Defendant testified on his own behalf, and denied complainant's allegations. Defendant noted that complainant placed wet tissue paper on the microphone in order to muffle the sound in the room, and that complainant and the other youth engaged in a struggle in which he was not involved.

The court found defendant guilty as charged. The court recommended that defendant be placed in a medium security facility and receive counseling for sex offenders.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People*

v Vaughn, 186 Mich App 376, 379; 465 NW2d 365 (1990). The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *Vaughn*, *supra* at 379-380.

A person is guilty of CSC I if he engages in sexual penetration with another person, if he is aided or abetted by another and force or coercion is used to accomplish the penetration, or if he causes personal injury to the victim and force or coercion is used to accomplish the penetration. MCL 750.520b(1)(d)(ii) and (f); MSA 28.788(2)(1)(d)(ii) and (f). Force or coercion includes, but is not limited to, physical force or violence, the threat of force or retaliation, inappropriate medical treatment, or concealment or surprise. *People v Malkowski*, 198 Mich App 610, 613; 499 NW2d 540 (1993). The existence of force or coercion is to be determined in light of all the circumstances. *Id.*

Defendant argues that the evidence was insufficient to support his convictions. We disagree and affirm. The court, as trier of fact, was entitled to determine which testimony it found credible and worthy of belief. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). The evidence provided by complainant showed that defendant engaged in penetration with complainant. Defendant, aided and abetted by the other youth, accomplished the penetration through the use of physical force, i.e., a beating. This use of force resulted in some degree of physical injury to complainant. Bodily injury need not be permanent or substantial to sustain a conviction of CSC I. *People v Himmelein*, 177 Mich App 365, 377; 442 NW2d 667 (1989). The evidence presented via complainant's testimony, coupled with the evidence that the microphone in the room was disabled, viewed in a light most favorable to the prosecution, was sufficient to support defendant's convictions. *Petrella*, *supra*.

Affirmed.

/s/ Jeffrey G. Collins

/s/ Janet T. Neff

/s/ Michael R. Smolenski