

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL CHARLES HAYNES,

Defendant-Appellant.

UNPUBLISHED

April 21, 2000

No. 206878

Macomb Circuit Court

LC No. 96-001743-FH

Before: Gribbs, P.J., and Doctoroff and T.L. Ludington*, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction for assault and battery, MCL 750.81; MSA 28.276, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with fourth-degree criminal sexual conduct after he made suggestive comments to a fifteen-year-old restaurant hostess, then placed his arm around her and rubbed her buttocks. He was found guilty of the lesser included offense of assault and battery. On appeal, he asserts that there was insufficient evidence to support his conviction.

In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

To establish a battery, the prosecutor must prove a forceful, violent, or offensive touching of the complainant. The touching must have been intended and against the complainant's will. CJI 2d 17.2; *People v Bryant*, 80 Mich App 428; 264 NW2d 13 (1978). The testimony of

* Circuit judge, sitting on the Court of Appeals by assignment.

complainant was clearly sufficient to support defendant's conviction for assault and battery.

Affirmed.

/s/ Roman S. Gibbs

/s/ Martin M. Doctoroff

/s/ Thomas L. Ludington