

STATE OF MICHIGAN  
COURT OF APPEALS

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In re JEREMIAH EDWARD MCEWEN, Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

JEREMIAH EDWARD MCEWEN,

Respondent-Appellant.

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UNPUBLISHED

April 21, 2000

No. 211699

Oakland Circuit Court

Juvenile Division

LC No. 94-058979-DL

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

MEMORANDUM.

Respondent appeals as of right his juvenile conviction for second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent's conviction arises out of an incident at a youth home. Complainant testified that respondent was his temporary roommate and one evening engaged in sexual contact with him. Complainant testified about the details of the incident. The trial court allowed a therapist to testify under MCR 803(4) as to what complainant told her about the incident. On appeal, respondent argues that the trial court erred in allowing the therapist to testify as to the hearsay statements made by complainant.

"Exceptions to the hearsay rule are justified by the belief that the hearsay statements are both necessary and inherently trustworthy." *People v Meeboer (After Remand)*, 439 Mich 310, 322; 484 NW2d 621 (1992). In order to be admitted under MRE 803(4), a statement must be made for purposes of medical treatment or diagnosis in connection with treatment, and must describe medical history, past or present symptoms, pain or sensations, or the inception or general character of the cause or external source of the injury. *Id.*

Because complainant's statements to the therapist do not appear to be made for diagnosis or treatment of a medical condition, we conclude that the court erred in its application of MRE 803(4).

However, we further conclude that the trial court's erroneous admission of the hearsay testimony was harmless. The erroneous admission of evidence is harmless if it did not prejudice the respondent. *People v Rodriguez (On Remand)*, 216 Mich App 329, 332; 549 NW2d 359 (1996). Here, the therapist testified about the prior statement of complainant. Because complainant testified about the alleged incident at trial, the therapist's testimony was merely cumulative evidence, and its admission did not prejudice respondent. *Id.*

Affirmed.

/s/ Jeffrey G. Collins

/s/ Janet T. Neff

/s/ Michael R. Smolenski