

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLYDE EUGENE DOGGETT, a/k/a BUTCH  
DOGGETT,

Defendant-Appellant.

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UNPUBLISHED

May 12, 2000

No. 212356

Shiawassee Circuit Court

LC No. 97-001153-FH

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

PER CURIAM.

Following a jury trial, defendant was convicted of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a) (sexual contact with a person less than thirteen years of age), and was sentenced to forty months' probation with twelve months to be served in jail. He appeals as of right. We affirm.

Defendant argues that he was denied a fair trial because the victim's father was permitted to sit behind the victim on the witness stand while she testified. We disagree. MCL 600.2163a(4); MSA 27A.2163(1)(4) specifically allows an alleged child victim of a criminal sexual conduct offense to have a "support person sit with" or "accompany" the witness when testifying at trial. Further, MRE 611 grants the trial court broad power to control the manner in which a trial is conducted, including the examination of witnesses. Under the circumstances of this case, and in light of the explicit authority granted by MCL 600.2163a(4); MSA 27A.2163(1)(4), we find no abuse of the court's discretionary power to allow the victim's father to sit behind her on the witness stand.

Defendant also argues that, even if reversal is not required because of the seating arrangement, he is entitled to a new trial because of the victim's father conduct in consoling the victim in front of the jury during an emotional moment. We disagree.

Although defendant claims that the victim's testimony should have been stricken, we fail to see how striking the testimony would have remedied the alleged prejudice that resulted from the challenged conduct, that being an alleged rousing of sympathy for the victim. Thus, we find no abuse of discretion

in the trial court's refusal to strike the victim's testimony. Further, we are of the opinion that the father's conduct in hugging his daughter during an emotional moment did not amount to improper vouching for his daughter's credibility. We find it unlikely that the jury would give more credence to the victim's testimony solely because her father, who was present as a support person, hugged his daughter under these circumstances.

In addition, the jury was instructed that it must not let sympathy influence its decision. The jury is presumed to follow the court's instructions until the contrary is clearly shown. *People v Wolverton*, 227 Mich App 72, 77; 574 NW2d 703 (1997). Indeed, even the prosecutor emphasized to the jury in closing arguments that "[t]he one thing you can't do as Jurors is let your sympathy for the Defendant or your sympathy for [the victim] influence your decision. Your decision has to be based only on facts." Also, considering that the trial court was in a much better position to assess the emotional environment in the courtroom, we afford great deference to its determination that the trial properly could continue. Accordingly, we conclude that defendant was not denied a fair trial due to the emotional impact of this scene, and that the trial court's instruction to the jury to not let sympathy influence its decision was sufficient to protect defendant's rights.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Michael R. Smolenski