STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED February 2, 2001
v	No. 220742 Marquette Circuit Court
KIM ANN SCHAEFER, Defendant-Appellant.	LC No. 97-033253-FC

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

PER CURIAM.

Defendant was convicted by a jury, on an aiding and abetting theory, of four counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), involving her daughter. Defendant was sentenced to concurrent prison terms of ten to twenty-five years. She appeals by right. We affirm.

This case arose when the child-victim revealed that she had been sexually assaulted by defendant's boyfriend.[1] The child also ultimately revealed that defendant, the child's mother, was occasionally present when the boyfriend sexually abused the child, and that defendant encouraged the little girl to participate. The theory of the defense was that defendant had no knowledge of, let alone participation in, any abuse that was taking place, and that the complainant implicated defendant only as the result of intensely suggestive interviewing techniques through the course of the investigation.

On appeal, defendant argues that the evidence was "too unreliable" to prove her guilt beyond a reasonable doubt. There is no merit to this issue. Defendant's challenge involves the credibility of the child victim. Credibility contests are for the jury to resolve, and we do not lightly accept invitations to question a jury's assessment. See *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990) Credibility is a matter for the trier of fact to ascertain. We will not resolve it anew. *Id.*

[1] Defendant's boyfriend pleaded guilty to first-degree criminal sexual conduct.

In this case, the victim, who was eight years old by the time of trial, testified by video deposition. Asked if anyone had ever given her a "bad touch," she answered that her mother's boyfriend had done so. Asked if anyone else was in the room, the witness answered, "Yes. . . . My Mom." Asked about the first time this happened, the victim answered, "When I was on the bed and [defendant's boyfriend] put his private in my mouth and on my private and my mom told me to suck on his private like a sucker," adding that this occurred in "mom's room." The victim further testified that defendant told her, "Good job," on this occasion. Asked if anyone had told her what to say, the victim said that they had not. The jury viewed the tape and found the victim's testimony credible. This Court will not second-guess that determination.

Defendant also urges this Court to declare that where a criminal sexual abuse case rests primarily on the testimony of a young child-witness who has been interviewed extensively by "authority figures," a trial court must, upon request, conduct a pretrial "taint" hearing to determine whether the child witness' account of the events has been distorted, or "tainted," by that process. Defendant attempted to develop the claim of taint at an evidentiary hearing below. We are not persuaded by defendant's argument here. Defendant makes no allegation of impropriety in this case and there is no evidence that the child's recollections were swayed by her conversations with "authority figures" such as the prosecutor and her counselor. The trial court did not err in concluding that no additional hearing on the issue of taint was required.

Next, defendant argues that the trial court erred in admitting evidence of the boyfriend's sexual assaults on other young children. We do not agree. The defense theory was that the child victim was not a credible witness. The trial court allowed the evidence because the separate assaults, too, came to light as a result of the victim's testimony. Because the defense was calling an expert witness to explain the claim of suggestive questioning, the victim's credibility was at issue. A trial court's evidentiary rulings are reviewed for an abuse of discretion. *People v Bahoda*, 448 Mich 261, 288-289; 531 NW2d 659 (1995). We find no abuse of discretion here. The trial court instructed the jury on the limited purpose of the evidence, and we are not convinced that the danger of unfair prejudice substantially outweighs the probative value in this case. *People v Crawford*, 458 Mich 376, 385; 582 NW2d 785 (1998).

Defendant also contends that she was denied a fair trial because of the unfair and improper attacks on her character. There is no merit to this claim. The question of defendant's lying to police about an automobile accident was probative to the issue of her credibility, and we are not convinced that it was unfairly prejudicial. MRE 403; *Bahoda, supra* at 288-289.

Defendant argues that the prosecutor improperly introduced character evidence in closing argument. There is no merit to this issue. Contrary to defendant's characterization, a prosecutor's closing argument is not evidence. See CJI2d 2.3. A prosecutor enjoys wide latitude in closing argument and is free to argue the evidence and all reasonable inferences from the evidence as they relate to the prosecution's theory of the case. *People v Fisher*, 220 Mich App 133, 159; 559 NW2d 318 (1996); *Bahoda, supra* at 282. In this case, there was evidence that defendant was more concerned about what would happen to her boyfriend than about what was happening to her daughter, and evidence that she referred to the child as a "little liar." The prosecutor reasonably inferred that defendant failed to be protective of her daughter.

Defendant contends that the trial court erred in denying her full access to all the records of the victim's therapist. Defendant concedes on appeal that the material was privileged. We note that the trial court examined the records in camera to allow defendant access to information concerning the victim's statements about defendant and defendant's role in the crime. The trial court declined, however, "to search through the entire record and try to look through for anything that might possibly be exculpatory to the defense." Defendant's general assertion that the record would show evidence that the victim's testimony was tainted by suggestive techniques amounted to a "fishing expedition." *People v Stanaway*, 446 Mich 643, 680; 521 NW2d 557 (1994). We find no abuse of discretion.

Nor are we persuaded by defendant's claim that she should have been allowed to call prosecutor Hanson as a witness. A defendant cannot interrogate a prosecuting attorney concerning trial preparation merely by characterizing the prosecutor's interviews with the complainant as "police investigation." Again, defendant's general concern, without factual basis, that the prosecutor *might* have had exculpatory information, does not justify a fishing expedition. *Id.*

Finally, there is no merit to defendant's claim that the prosecutor improperly used "syndrome" evidence. First, to the extent that defendant is challenging the admission of the expert testimony, we find no abuse of discretion. *Bahoda, supra* at 288-289. The child-victim's credibility was very much at issue, and defendant attempted to raise doubts about whether she had been sexually abused at all and argued that the "acting out" could be explained by other things than a history of abuse. The trial court properly admitted the expert testimony about how certain behaviors observed here comported generally with those of sexually abused children. The trial court also instructed the jury regarding the purpose of the expert's testimony. *People v Peterson*, 450 Mich 349, 352, 373; 537 NW2d 857 (1995). To the extent that defendant challenges the prosecutor's reference to the evidence in closing argument, the issue is not preserved for appeal. In any event, as noted previously, the prosecutor is free to argue the evidence and all reasonable inferences. *Fisher, supra*. We find no manifest injustice. *People v Launsburry*, 217 Mich App 358, 361; 551 NW2d 460 (1996).

Affirmed.

/s/ Roman S. Gribbs
/s/ Michael J. Kelly
/s/ Joel P. Hoekstra