

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BECKET ROBERT MAY,

Defendant-Appellant.

UNPUBLISHED

September 13, 2002

No. 232764

Ingham Circuit Court

LC No. 99-074583-FH

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

PER CURIAM.

Following a jury trial, defendant was convicted of three counts of second-degree criminal sexual conduct with a child under thirteen years of age, MCL 750.520c(1)(a), and sentenced to three concurrent sentences of 10 to 22 ½ years' imprisonment. Defendant appeals as of right. This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

The victim, who was nine years old at the time of trial, testified that defendant had sexually abused her. She stated that the abuse began when she was about six or seven years old. The victim told her mother about the abuse on September 3, 1998, after noticing she had genital warts which were bleeding. She did not tell anyone about the abuse sooner because she feared defendant would hurt her; however, she could offer no explanation for why she felt that way.

Certain aspects of the victim's trial testimony conflicted with statements she gave to various individuals before the trial. For example, at trial she testified that the abuse occurred in her mother's bedroom, while she had told medical personnel that it occurred in her bedroom. Her statements regarding the frequency of the abuse also varied, six to seven times, ten to fifteen times, and three times per week over a one and a half year period of time. There was also a discrepancy as to the time of day the incidents occurred, although the victim testified consistently that the abuse always occurred when her mother was at work. The victim testified at trial that defendant had touched her genital area with his penis, but that there had been no penetration; however, a police report indicated that the victim stated there had been penetration.

Testimony established that defendant had genital warts and his last contact with the victim had been about one year before she told her mother of the sexual abuse. A medical expert testified that while several weeks to several months is the normal manifestation time for genital warts, they can manifest themselves up to two years after exposure. Defendant denied he sexually abused the victim.

Defendant first argues that the trial court erred when it denied his motion for new trial. We disagree. A trial court's decision regarding a motion for new trial is reviewed for an abuse of discretion. *People v Jones*, 236 Mich App 396, 404; 600 NW2d 652 (1999). Defendant contends that because of the discrepancies between the victim's trial testimony and pre-trial statements, her testimony was not credible, and, therefore, the jury's verdict was against the great weight of the evidence. Defendant also cites two discrepancies between the victim's testimony and that of her mother.

However, "[c]onflicting testimony, even when impeached to some extent, is an insufficient ground for granting a new trial." *People v Lemmon*, 456 Mich 625, 647; 576 NW2d 129 (1998). The narrow exception to this rule, where the testimony contradicts indisputable physical facts or laws, does not apply in this case. *Id.* All of the discrepancies which defendant highlights regarded the time, place, or manner of the sexual abuse. These were not such discrepancies that deprived the victim's testimony of all probative value. *Id.* at 645-646. Furthermore, defendant admits that the conflicts in testimony between the victim and her mother were minor. Therefore, the test of credibility must be left to the jury. *Id.* at 646-647. We hold that the trial court did not abuse its discretion in denying defendant's motion for new trial.

Defendant also asserts that his sentence was disproportional, but presents no argument to support his assertion. It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. *Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998). Therefore, defendant has waived this issue for review. *Id.* at 104.

Affirmed.

/s/ Michael R. Smolenski

/s/ Janet T. Neff

/s/ Richard A. Bandstra