

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM NOBLE BUNCH,

Defendant-Appellant.

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UNPUBLISHED

December 20, 2002

No. 234539

Van Buren Circuit Court

LC No. 00-1201-FH

Before: Whitbeck, C.J., and Zahra and Murray, JJ.

PER CURIAM.

Following a bench trial, defendant William Noble Bunch was convicted of one count of third-degree criminal sexual conduct (CSC III), MCL 750.520d(1)(b), and was sentenced to 1¼ to 15 years imprisonment. Defendant appeals as of right, and we affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The only issue for our resolution is whether there was sufficient evidence presented to the trial court to convict defendant of this crime. In *People v Crippen*, 242 Mich App 278, 282; 617 NW2d 760 (2000), we delineated the elements establishing CSC-III:

The offense of CSC-III requires a showing that the defendant engaged in sexual penetration with another under certain aggravating circumstances, including sexual penetration accomplished by force or coercion. MCL 750.520d; MSA 28.788(4). The existence of force or coercion is to be determined in light of all the circumstances, and includes, but is not limited to, acts of physical force or violence, threats of force, threats of retaliation, inappropriate medical treatment, or concealment or surprise to overcome the victim. (Emphasis and footnote deleted.)

Because defendant was convicted at a bench trial, we review challenges to a trial court's findings of fact for clear error. MCR 2.613(C); *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "A finding is clearly erroneous if, after a review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *Gistover, supra*, 189 Mich App at 46. In utilizing this standard of review, "regard shall be given to the special opportunity of the trial court to judge the credibility of the witnesses who appear before it." *People v Thenghkam*, 240 Mich App 29, 43; 640 NW2d 571 (2000).

Because it was undisputed that there was sexual penetration by the defendant upon the victim, the only factual resolution required of the trial court was whether the penetration was accomplished by force or coercion. The trial court recognized this as its fact finding responsibility, and upon reviewing the trial court's conclusion in light of all the circumstances presented, *People v Crippen, supra*, we find that the trial court did not clearly err in coming to its conclusion. The evidence presented to the trial court, and in particular that of the victim and Mrs. Barber, provided a solid foundation for the trial court to conclude that defendant accomplished the sexual penetration by force. Moreover, in making its findings, the trial court specifically relied on the credibility of the victim's and Mrs. Barber's testimony, considering both the pros and cons of the victim's trial testimony in light of the somewhat conflicting statements made to the police soon after the incident. We also note that the trial court placed great reliance upon Mrs. Barber's testimony as to the victim's appearance and state of mind immediately after the incident.

Although defendant makes much of the difference between what the victim said to the police and what she testified to at trial, the argument does not require reversal because the trial court resolved the differences through its credibility determinations, to which we must defer. *Thenghkam, supra*.

Affirmed.

/s/ William C. Whitbeck  
/s/ Brian K. Zahra  
/s/ Christopher M. Murray