

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ULRICH DYOR BAKER,

Defendant-Appellant.

UNPUBLISHED

October 5, 2004

No. 247549

Wayne Circuit Court

LC No. 02-008167-01

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction of second-degree child abuse (reckless act), MCL 750.136b(3)(a), entered after a jury trial. We affirm.

Defendant was employed at a group home. His duties included giving personal care to the male residents. A fifteen-year-old autistic child sustained first- and second-degree burns over the lower portion of his body shortly after being bathed by defendant. A physician who treated the child testified that the burns were consistent with those caused by hot water and were consistent with those resulting from being placed in a tub bath rather than a shower. Defendant testified that he gave the child a shower rather than a bath, asserting that prior to doing so he tested the temperature of the water and found it to be warm but not hot. Defendant maintained that he did not know how the child's injury occurred.

In reviewing a sufficiency of the evidence question, we examine the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

To establish the offense of second-degree child abuse (reckless act), the prosecution was required to show that: (1) defendant had care of or authority over the child when the abuse allegedly occurred; (2) defendant did some reckless act; (3) as a result the child suffered serious physical harm; and (4) at the time the child was under the age of eighteen. MCL 750.136b(3)(a); CJI2d 17.20. In order to establish the elements of second-degree child abuse (reckless act), the

prosecution need not prove that the person having care of or authority over the child intended to harm the child. See MCL 750.136b.

Defendant argues that the evidence was insufficient to support his conviction. We disagree and affirm. The fifteen-year-old child suffered first- and second-degree burns on his lower body shortly after being washed by defendant. The jury was entitled to reject defendant's assertion that he gave the child a shower rather than a bath, *Milstead, supra*, and to infer that because the pattern of the burns was consistent with a bath and because the burns appeared shortly after defendant washed the child, defendant sat the child in excessively hot water. *Vaughn, supra*; *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). The inference that defendant placed the child in excessively hot water supported a conclusion that he acted recklessly, and that his act resulted in injury to the child. The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction. *Wolfe, supra*.

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood