

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY WILLIAM SCHWARTZ,

Defendant-Appellant.

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UNPUBLISHED

October 19, 2004

No. 247895

Calhoun Circuit Court

LC No. 02-004542-FC

Before: Griffin, P.J., and Saad and O'Connell, JJ.

MEMORANDUM.

A jury convicted defendant of two counts of criminal sexual conduct in the first degree (CSC I), the victim being under thirteen years of age<sup>1</sup> and two counts of criminal sexual conduct in the second degree (CSC II), the victim being under thirteen years of age.<sup>2</sup> The trial court sentenced defendant to two concurrent terms of fifteen to thirty years in prison for the CSC-I convictions, and to seven years, two months to fifteen years in prison for the CSC-II convictions. Defendant appeals his convictions and sentences, and we affirm.<sup>3</sup>

Defendant argues that he was denied due process by the omission of the parties' closing arguments from the trial transcript. The inability to obtain the transcripts of a criminal proceeding may impede a defendant's right to appeal to the extent that a new trial must be ordered. The surviving record may be reviewed to determine whether it is sufficient to evaluate the defendant's claims on appeal. *People v Federico*, 146 Mich App 776, 799-800; 381 NW2d 819 (1985). The prosecution, upon receiving defendant's brief on appeal, contacted the court reporter and secured the production of the transcript of the parties' closing arguments. The specific issue raised by defendant on appeal has been rendered moot, see *People v Briseno*, 211 Mich App 11, 17; 535 NW2d 559 (1995), and defendant has not filed a supplemental brief raising any issue based on the content of the parties' closing arguments or any portion of the remaining record. No issue remains for resolution.

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<sup>1</sup> MCL 750.520b(1)(a).

<sup>2</sup> MCL 750.520c(1)(a)

<sup>3</sup> This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Affirmed.

/s/ Richard Allen Griffin

/s/ Henry William Saad

/s/ Peter D. O'Connell