

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AARON CLARK IV,

Defendant-Appellant.

UNPUBLISHED
February 12, 2009

No. 280809
Wayne Circuit Court
LC No. 07-008181-01

Before: Saad, C.J., and Davis and Servitto, JJ.

PER CURIAM.

Following a bench trial, defendant appeals his convictions of two counts of first-degree criminal sexual conduct, MCL 750.520b(1)(h)(i) (victim mentally disabled and related to the defendant). The trial court sentenced defendant to concurrent terms of 18 to 30 years' imprisonment. We affirm.

I. Discovery and Adjournment of Trial

Defendant argues that the trial court abused its discretion by denying his motion to adjourn trial until the prosecution complied with defendant's discovery request. We disagree. The prosecutor provided defendant, as required, with the records upon which its expert relied in testifying that the complainant, defendant's 17-year-old daughter, was mentally disabled. MCR 6.201(B); *People v Banks*, 249 Mich App 247, 252; 642 NW2d 351 (2002); *People v Gilmore*, 222 Mich App 442, 448; 564 NW2d 158 (1997). Defendant maintains that he was also entitled to all of the records regarding the complainant's nearly two-year stay at a residential treatment facility in order to establish his defense that the victim was severely mentally ill, was delusional, and had fabricated the incident. However, the records that defendant sought were privileged, and defendant did not demonstrate a good faith belief, grounded in articulable fact, that there was a reasonable probability that the records were likely to contain material information necessary to the defense. MCR 6.201(C)(2); *People v Fink*, 456 Mich 449, 455; 574 NW2d 28 (1998). Therefore, the trial court did not abuse its discretion in denying defendant's motion to adjourn trial to produce the records. Moreover, defendant questioned the prosecution's expert regarding whether the complainant had suffered any psychotic breaks during her stay, and the expert indicated that she had not.

II. Great Weight of the Evidence

Defendant also says that the verdict was against the great weight of the evidence. We disagree. We review for clear error the trial court's findings of fact following a bench trial. MCR 2.613(C); *Ambs v Kalamazoo County Road Comm*, 255 Mich App 637, 651; 662 NW2d 424 (2003). Defendant does not deny that the complainant was his mentally disabled daughter. At trial, defendant argued that the complainant was mentally unstable, that she had not received appropriate medication on the date of the alleged incident, and that she was in a psychotic state at the time she arrived at the hospital. The trial court, in rendering its opinion, took all of these facts into account and credited the victim's testimony. Deference must be given to the trial court's superior ability to assess the credibility of the witnesses. MCR 2.613(C); *Ambs, supra* at 652. When there is conflicting evidence, the question of credibility ordinarily should be left for the fact finder. *People v Lemmon*, 456 Mich 625; 576 NW2d 129 (1998); *People v Unger*, 278 Mich App 210, 232; 749 NW2d 272 (2008).

III. Sentence

Finally, defendant argues that his sentence was not individualized and was, therefore, invalid. Defendant's sentence was within the applicable guidelines range of 108 to 225 months. Because defendant does not claim error in the scoring of the guidelines or in the information relied upon in determining the sentence, the sentence must be affirmed. MCL 769.34(10); *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004).

Affirmed.

/s/ Henry William Saad
/s/ Alton T. Davis
/s/ Deborah A. Servitto