

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PATRICK DAMEN SHORTY,

Defendant-Appellant.

---

UNPUBLISHED

October 1, 2009

No. 284798

Eaton County Circuit Court

LC No. 07-020124-FC

Before: Murray, P. J., and Markey and Borrello, JJ.

MEMORANDUM.

After a jury trial, defendant was convicted of one count of first-degree criminal sexual conduct (CSC I), MCL 750.520b(1)(a) (sexual penetration of a person under 13 years of age), and two counts of second-degree criminal sexual conduct (CSC II), MCL 750.520c(1)(a) (sexual contact with a person under 13 years of age). He was sentenced to concurrent prison terms of 140 to 360 months on the CSC I conviction, and to 50 to 180 months for each of the CSC II convictions. Defendant appeals as of right, and we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant's minor daughter testified that defendant engaged in several sexual acts with her, including vaginal penetration. Defendant's sole argument on appeal is that the evidence at trial was insufficient to convict him. Specifically, defendant argues that the victim's testimony was compromised because of her memory, as well as language and communication disabilities, and that the evidence supporting his convictions was therefore insufficient. We disagree.

When determining the sufficiency of the evidence, we view the evidence de novo in a light most favorable to the prosecution and must consider whether a rational trier of fact could find, based on that evidence, that the essential elements of the crime were proven beyond a reasonable doubt. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002); *People v Fetterly*, 229 Mich App 511, 515; 583 NW2d 199 (1998). Questions regarding the credibility of a witness and the weight of the evidence are left to the trier of fact and are not to be resolved anew by this Court. *People v Williams*, 268 Mich App 416, 419; 707 NW2d 624 (2005).

In arguing that the victim's testimony should not be deemed sufficient to sustain his conviction, defendant impliedly challenges her competency to testify. However, this Court has specifically held that if a child is found competent to testify under MRE 601, then "a later showing of the child's inability to testify truthfully reflects on credibility, not competency."

*People v Coddington*, 188 Mich App 584, 597; 470 NW2d 478 (1991) (citation omitted). Here, the victim was deemed competent under MRE 601, and the record supports this conclusion. We see no reason in the record before us to depart from the well-established principle to defer to the jury's credibility determinations. *People v Hughes*, 217 Mich App 242, 248-249; 550 NW2d 871 (1996).

The victim's testimony was detailed and provided all the evidence from which a rational jury could determine that the elements of both CSC I and CSC II were proven beyond a reasonable doubt. *People v Smith*, 149 Mich App 189, 195; 385 NW2d 654 (1986); see also MCL 750.520h ("The testimony of a victim need not be corroborated in prosecutions under sections 520b to 520g.").

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Stephen L. Borrello