IN THE UTAH COURT OF APPEALS

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State of Utah, Plaintiff and Appellee, v. Jeremy Ayotte, Defendant and Appellant.	)	MEMORANDUM DECISION (Not For Official Publication) Case No. 20090813-CA F I L E D (September 30, 2010) 2010 UT App 268

First District, Brigham City Department, 081100110
The Honorable Ben H. Hadfield

Attorneys: Randall W. Richards, Ogden, for Appellant
Mark L. Shurtleff and Kenneth A. Bronston, Salt Lake City, for Appellee

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Before Judges Orme, Thorne, and Christiansen.

PER CURIAM:

Jeremy Ayotte appeals from his convictions of three counts of unlawful sexual activity with a minor. Specifically, Ayotte argues that there was insufficient evidence to support his convictions. We affirm.

"[A]s a general rule, a defendant must raise the sufficiency of the evidence by proper motion or exception to preserve the issue for appeal." State v. Holgate, 2000 UT 74, ¶ 16, 10 P.3d 346. Ayotte did not preserve this issue for appeal by timely bringing the issue to the district court's attention. Similarly, Ayotte also fails to argue on appeal that the district court committed plain error or that exceptional circumstances exist. See State v. King, 2006 UT 3, ¶ 13, 131 P.3d 202 (discussing exceptions to the general rule concerning preserving issues for appeal). Further, even if this court were to construe Ayotte's brief broadly enough to include the claims of plain error or exceptional circumstances, Ayotte's claim would still fail.

Ayotte bases his insufficiency argument on the fact that there is no physical evidence to support the charges. As such, he argues that the district court should have applied the antiquated "two-witness rule," which required two witnesses to

verify the testimony of the victim. However, the two-witness rule was long ago disavowed by Utah courts. See State v. Middlestadt, 579 P.2d 908, 911 (Utah 1978) (stating that "a conviction may be sustained upon the uncorroborated testimony of the victim"). Thus, because Ayotte is arguing for a change in Utah law, it cannot be said that the district court committed plain error.

Similarly, this appeal does not present exceptional circumstances to justify the review of an issue that was not preserved for review in the district court. The exceptional circumstances doctrine is reserved "for the most unusual circumstances where our failure to consider an issue that was not properly preserved for appeal would have resulted in manifest injustice." State v. Nelson-Waggoner, 2004 UT 29, ¶ 23, 94 P.3d 186. Ayotte seeks application of a doctrine that is no longer recognized in cases involving sexual offenses--a doctrine that has been expressly disavowed by our supreme court. See Middlestadt, 579 P.2d at 911. Ultimately, the victim's testimony supported all elements of the crimes for which Ayotte was convicted, and Ayotte has provided no exceptional reason for interfering with the jury's verdict.

Affirmed.

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge

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Michele M. Christiansen, Judge