

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,  
Respondent,

v.

MRH,  
Appellant.

No. 41809-6-II

UNPUBLISHED OPINION

Van Deren, J. — MRH appeals his adjudications of guilt on charges of first degree rape of a child and first degree child molestation, arguing that the trial court denied him due process when it allowed the complainant’s parents to opine as to the truthfulness of the complainant. We affirm.<sup>1</sup>

On July 23, 2010, then 8-year-old CMH<sup>2</sup> told his father that his then 14-year-old stepbrother, MRH, had touched him and played with his penis. CMH’s father (who is also MRH’s father) asked MRH about CMH’s claim. MRH said, “I didn’t do that”; and then said, “Could we forget about it?” Report of Proceedings (RP) at 52.

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<sup>1</sup> A commissioner of this court initially considered MRH’s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

<sup>2</sup> Under RAP 3.4, this court changes the title of the case to the juvenile’s initials to protect the juvenile’s interests in privacy. We also use the juvenile victim’s initials to protect his interests in privacy.

The State charged MRH with one count of first degree rape of a child and one count of first degree child molestation. At the request of the State and MRH's counsel, testimony on whether CMH's out-of-court statements were admissible under RCW 9A.44.120 was combined with the trial testimony.

The State asked CMH's father, "[A]re you familiar with the reputation for truthfulness or veracity of [CMH] among parents or the community of parents in the area?" RP at 46. CMH's father said, "Yes." RP at 46. When asked what that reputation was, CMH's father answered, "He's truthful. If they ask a question, he answers it right away." RP at 46. MRH objected on the grounds that CMH's father "can answer whether he has a good reputation or a bad reputation for being truthful or not, and I don't think that's what he did here." RP at 46. The juvenile court overruled the objection as to the first part of CMH's father's answer but sustained it as to the second part. CMH's father then testified to CMH's statements to him.

CMH's mother testified that CMH's father told her about CMH's statements about MRH. When she asked him what had happened, CMH told her that MRH had made oral contact with his penis and that MRH had penetrated his anus with his penis. The State asked CMH's mother "[A]re you familiar with [CMH's] reputation among, you know, family and friends and teachers, what his reputation is for telling the truth?" RP at 80. She said she was, and when asked about CMH's reputation, she said, "He's very truthful." RP at 80. MRH did not object to the questions or the answers.

A doctor who examined CMH and a detective who interviewed CMH testified that CMH told them of MRH's oral contact and penile-anal contact. CMH testified that MRH licked his penis two or three times and stuck his penis in CMH's bottom two or three times.

The juvenile court found that CMH's statements to his parents, the doctor and the detective were made spontaneously or in response to open-ended inquiries. It concluded that those statements were admissible. It found CMH's testimony credible. It found MRH guilty of both first degree rape of a child and first degree child molestation.

MRH argues that the juvenile court erred in allowing CMH's father and mother to testify that CMH was truthful because it expressed their personal beliefs as to CMH's credibility. *State v. Case*, 49 Wn.2d 66, 71, 298 P.2d 500 (1956); *State v. Carlin*, 40 Wn. App. 698, 701, 700 P.2d 323 (1985). However, MRH did not object to CMH's mother's testimony and so cannot challenge the admission of that testimony for the first time on appeal. *State v. O'Cain*, 169 Wn. App. 228, 242-43, 279 P.3d 926 (2012). And any error in allowing CMH's father's testimony as to CMH's truthfulness was harmless, given the juvenile court's explicit finding that CMH's testimony was credible. *State v. Miles*, 77 Wn.2d 593, 601, 464 P.2d 723 (1970).

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

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Van Deren, J.

We concur:

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Quinn-Brintnall, J.

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Johanson, A.C.J.

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