

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

RAMOND CURTIS JACKSON, *Appellant*.

No. 1 CA-CR 15-0367
FILED 5-19-2016

Appeal from the Superior Court in Maricopa County
No. CR2013-002469-001
The Honorable Peter C. Reinstein, Judge

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Mays Law Office, PLLC, Phoenix
By Wendy L. Mays
Counsel for Appellant

MEMORANDUM DECISION

Judge Jon W. Thompson delivered the decision of the Court, in which
Presiding Judge Patricia A. Orozco and Judge Peter B. Swann joined.

STATE v. JACKSON
Decision of the Court

THOMPSON, Judge:

¶1 Ramond Curtis Jackson (defendant), appeals from his convictions for sexual conduct with a minor following a jury trial and the sentences imposed. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY¹

¶2 Defendant was indicted on four counts of sexual conduct with a minor, class 2 felonies and dangerous crimes against children. Defendant was alleged to have engaged in sexual intercourse, oral sexual contact, digital penetration of anus, and digital penetration of vagina with his seven year old step-daughter on August 23, 2007. The jury found defendant guilty of the offenses as charged, and the court imposed presumptive, consecutive sentences of thirty-five years imprisonment on each count.

¶3 Defendant timely appealed. This court has jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1) (2003), and 13-4033(A)(1), (4) (Supp. 2013).

DISCUSSION

¶4 Defendant's sole issue on appeal is that the trial court erred in denying his motion for a mistrial following his repeated outbursts in front of the jury. Defendant contends that the court's failure to inquire into the individual jurors' ability to ignore the content of his outbursts and remain fair and impartial violated defendant's constitutional right to a fair and impartial jury.

¶5 We review the denial of a motion for mistrial for abuse of discretion. *State v. Hoskins*, 199 Ariz. 127, 142 ¶ 52, 14 P.3d 997, 1012 (2000). "This deferential standard of review applies because the trial judge is in the best position to evaluate 'the atmosphere of the trial, the manner in which the objectionable statement was made, and the possible effect it had on the jury and the trial.'" *State v. Bible*, 175 Ariz. 549, 598, 858 P.2d 1152, 1201 (1993) (quoting *State v. Koch*, 138 Ariz. 99, 101, 673 P.2d 297, 299 (1983)).

¹ We view the evidence in the light most favorable to sustaining the conviction and resolve all reasonable inferences against defendant. *State v. Karr*, 221 Ariz. 319, 320, ¶ 2, 212 P.3d 11, 12 (App. 2008) (citation omitted).

STATE v. JACKSON
Decision of the Court

¶6 Immediately following the prosecutor's rebuttal closing argument, defendant made several statements to the jury and court:

THE DEFENDANT: Also each one of these charges carries a life sentence. They carry a life sentence.

THE COURT: Excuse me.

THE DEFENDANT: -- and I've been in jail for two years.

THE COURT: Hey. Hey, Mr. Jackson?

THE DEFENDANT: This is four life sentences here.

....

THE DEFENDANT: And it's not my original charges.

THE COURT: I'm going to have the deputy take you out if you continue to talk.

THE DEFENDANT: But these are not my original charges.

THE COURT: Listen to me, Mr. Jackson. If you say another word I'm going to have the deputy --

THE DEFENDANT: But this is my life here.

THE COURT: Mr. Jackson

THE DEFENDANT: This is a life sentence here.

THE COURT: Say another word, I'm going to have the deputy take you out.

The jury will disregard any statements made by the Defendant.

THE DEFENDANT: I can't defend myself?

THE COURT: Mr. Jackson?

STATE v. JACKSON
Decision of the Court

THE DEFENDANT: They got two years to test my DNA.

THE COURT: I'm going to have the deputy take Mr. Jackson out at this time.

THE DEFENDANT: I been in jail two years.

THE COURT: Ladies and gentlemen --

THE DEFENDANT: Four life sentences.

THE COURT: You're to disregard the statements that the defendant has made.

¶7 Defendant clearly invited the error complained of in this appeal. "A defendant who invites error at a trial may not then assign the same as error on appeal." *State v. Islas*, 132 Ariz. 590, 592, 647 P.2d 1188, 1190 (App. 1982). "If an error is invited, we do not consider whether the alleged error is fundamental" *State v. Logan*, 200 Ariz. 564, 565, ¶ 9, 30 P.3d 631, 632 (2001). The purpose of the invited error doctrine "is to prevent a party from 'inject[ing] error in the record and then profit[ing] from it on appeal.'" *Id.* at 566, ¶ 11, 30 P.3d at 633 (quoting *State v. Tassler*, 159 Ariz. 183, 185, 765 P.2d 1007, 1009 (App. 1988)). Consequently, defendant has no basis for claiming the outburst infringed upon his right to a fair and impartial jury as error on appeal.

CONCLUSION

¶8 For the foregoing reasons, we affirm defendant's convictions and sentences.



Ruth A. Willingham · Clerk of the Court
FILED : ama