

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR08-985

VERNON HOLLAND

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 20, 2009

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT
[NO. CR-2008-33-1]

HONORABLE WILLIAM A. STOREY,
JUDGE

AFFIRMED

LARRY D. VAUGHT, Chief Judge

Appellant Vernon Holland was convicted of indecent exposure. His sole point on appeal challenges the sufficiency of the evidence supporting his conviction. He argues that because the State lacked the requisite quantum of proof to support the charge against him, the trial court erred in its denial of his directed-verdict motion. We disagree and affirm the trial court’s ruling.

In order to prove that Holland committed the crime of indecent exposure, the State was required to prove that he exposed his sex organs in a public place or public view and that he did so with the purpose to arouse or gratify his or another’s sexual desire. Ark. Code Ann. § 5-14-112 (Repl. 2006). On appeal, we review the evidence in a sufficiency challenge in the light most favorable to the State and sustain the conviction if there is any substantial evidence to support it. *Kendrick v. State*, 37 Ark. App. 95, 823 S.W.2d 931 (1992). Substantial evidence

is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion without resort to speculation or conjecture. *Id.* In that regard, the jury was free to accept or reject any part, or all, of the witnesses' testimony. *Anderson v. State*, 357 Ark. 180, 163 S.W.3d 333 (2004). Moreover, if the testimony poses any inconsistency, that, too, is for the jury to evaluate. *Benson v. State*, 357 Ark. 43, 160 S.W.3d 341 (2004).

The State's case-in-chief was predicated on the testimony of Patricia Hampton. Hampton testified that on the morning of April 24, 2007, she was traveling westbound on State Highway 62, en route to Siloam Springs. She testified that, as she passed Holland's residence, she observed him standing on his porch, naked. She also claimed that he was "stroking his penis and twisting his nipples." Hampton testified that she had observed Holland doing this on other occasions, while dressed in various items of women's clothing. She further testified that she only felt compelled to alert police on this occasion, because this time Holland was completely naked.

Hampton also testified that Holland was approximately fifty to seventy-five feet from the roadway, and although there was a fence around the residence, it did not obscure the view of the residence in relation to the roadway—due to a driveway path that created a forty-foot gap in the fence. This testimony was confirmed by Jeremy Harrison, from the Washington County Sheriff's Office, who testified that he visited Holland's residence in response to Hampton's complaint. Harrison confirmed that the porch was visible from the roadway.

The jury found Hampton to be a credible witness, despite the fact that portions of her testimony—relating to a school bus loaded with children passing Holland's home at the same time she observed his lewd behavior—were directly contradicted by school-district

administrators. As the weighing and culling of credibility is a jury function, we must yield to its conclusion on this matter. Her testimony, if believed, was more than sufficient to establish that Holland exposed his sex organs in a public place or public view.

As to the second element of the charge—that he publically exposed himself with the purpose to arouse or gratify his or another’s sexual desire—we are not impressed with Holland’s contention that the State failed to prove that his actions were sexually gratifying. The law recognizes that it is difficult to ascertain one’s “intent” or state of mind. As such, a presumption exists that a person intends the natural and probable consequences of his or her acts, and jurors are allowed to draw upon their common knowledge and experience to infer intent from the circumstances. *Mitchem v. State*, 96 Ark. App. 78, 238 S.W.3d 623 (2006). Here, as the State deftly notes, common sense dictates that Holland’s penis-stroking and nipple-twisting acts were done for his own sexual gratification. As such, the jury’s conclusion that the State proved the intent element of indecent exposure is supported by Hampton’s testimony coupled with a small measure of common sense. In sum, we find that sufficient evidence was presented to support Holland’s conviction and that the trial court did not err in its denial of his directed-verdict motion.

Affirmed.

GLADWIN and GLOVER, JJ., agree.