

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THEODORE ROOSEVELT DORSETTE, II,

Defendant-Appellant.

UNPUBLISHED

July 19, 1996

No. 180601

LC No. 93-013902

Before: Neff, P.J., and Fitzgerald and C.A. Nelson,* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of third-degree criminal sexual conduct, MCL 750.520d; MSA 28.788(4). He was sentenced to twelve months in a work release program. Defendant appeals as of right. We affirm.

On appeal, defendant contends that there was insufficient evidence to convict him of third-degree criminal sexual conduct. Defendant argues that the victim's testimony was impeached and was inconsistent. In addition, defendant contends that his testimony showed that the sex was consensual and that his testimony was bolstered by other witnesses who indicated he had a character for truthfulness. We disagree.

The third-degree criminal sexual conduct statute prohibits engaging in sexual penetration with another person under certain circumstances, including where the penetration is accomplished by force or coercion or where the actor knows the victim is physically helpless. *People v Hutner*, 209 Mich App 280, 283; 530 NW2d 174 (1995). Here, the testimony showed that a penetration occurred. *People v Hunt*, 442 Mich 359, 364; 501 NW2d 151 (1993). In addition, the victim testified that physical force was used as she was pulled off the couch and pinned under defendant's body weight with her face in the couch.

With regard to defendant's argument that the victim's testimony was inconsistent, the trial judge stated that he did not believe defendant's version of the events and noted that the victim's testimony was

* Circuit judge, sitting on the Court of Appeals by assignment.

impeached in part. This Court should not interfere with the trier of facts' role of determining the weight of the evidence or the credibility of witnesses. *People v Wolf*, 440 Mich 508, 514; 489 NW2d 748 (1992). Accordingly, we find that there was sufficient evidence presented at trial to support defendant's conviction of third-degree criminal sexual conduct.

Affirmed.

/s/ Janet T. Neff

/s/ E. Thomas Fitzgerald

/s/ Charles A. Nelson