

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ELDRIDGE MOORE, JR.,

Defendant-Appellant.

UNPUBLISHED

January 21, 1997

No. 174591

LC No. 93-008110

Before: Cavanagh, P.J., and Reilly and C.D. Corwin,* JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of two counts of third-degree criminal sexual conduct, MCL 750.520d(1)(b); MSA 28.788(4). The trial court sentenced defendant to one and one-half to fifteen years' imprisonment on each count. We affirm.

Defendant's sole issue on appeal is that the trial court erred in refusing defense counsel's request that it read CJI 2d 20.27 to the jury. Jury instructions are to be read as a whole rather than extracted piecemeal to establish error. Even if somewhat imperfect, there is no error if the instructions fairly presented the issues to be tried and sufficiently protected the defendant's rights. *People v Bell*, 209 Mich App 273, 276; 530 NW2d 167 (1995).

We find no error requiring reversal. As an initial matter, we note that the Michigan Criminal Jury Instructions do not have the official sanction of the Supreme Court. Their use is not required, and trial judges are encouraged to examine them carefully, in order to ensure their accuracy and appropriateness to the case at hand. *People v Petrella*, 424 Mich 221, 277; 380 NW2d 11 (1985).

After carefully reviewing the record, we conclude that the trial court's instructions to the jury fairly presented the issues to be tried and sufficiently protected the defendant's rights. *Bell, supra*. The trial court instructed the jury that the prosecution had to prove all elements of the crime beyond a reasonable doubt. The trial court further instructed the jury that the prosecution had to prove that the sexual penetration was done without the consent of the victim. The trial court's instructions included all

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

elements of the charged offense and did not exclude material issues, defenses, or theories. *People v Davis*, 216 Mich App 47, 54; 549 NW2d 1 (1996). Accordingly, reversal is not required.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Maureen Pulte Reilly
/s/ Charles D. Corwin