

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRIS DAVON HENRY,

Defendant-Appellant.

UNPUBLISHED

September 26, 1997

No. 197403

Oakland County Probate Court

LC No. 96-061232-DL

Before: Sawyer, P.J., and Hood and Hoekstra, JJ.

PER CURIAM.

Following a jury trial in the Oakland County Probate Court, defendant was adjudicated guilty of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), and second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). The probate court ordered defendant placed in the temporary custody of the court in Oakland County Children's Village. Defendant appeals as of right. We affirm.

First, defendant argues that there was insufficient evidence presented at trial to sustain his convictions. Specifically, defendant contends that the testimony of the prosecution's witnesses was inconsistent and that the victim's testimony consisted largely of false information and lies. We disagree.

When determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 215 Mich App 658, 671; 547 NW2d 65 (1996). Defendant was charged and convicted of first-degree criminal sexual conduct pursuant to MCL 750.520b(1)(a); MSA 28.788(2)(1)(a). A person is guilty of criminal sexual conduct in the first degree under MCL 750.520b(1)(a); MSA 28.788(2)(1)(a) if he or she engages in sexual penetration with a person under thirteen years of age. *People v Hammons*, 210 Mich App 554, 557; 534 NW2d 183 (1995). "Sexual penetration," is defined to mean any intrusion, however slight, of any part of a person's body or any object into the genital or anal openings of another person's body. *Id.*

Although defendant argues that the victim's testimony was not credible, especially in light of the testimony of defendant's brother who was also present, this Court will not interfere with the jury's resolution of credibility disputes. *People v DeLisle*, 202 Mich App 658, 660; 509 NW2d 885 (1993). Moreover, the testimony of a victim need not be corroborated in prosecutions under MCL 750.520b through MCL 750.520g. MCL 750.520h; MSA 28.788(8). Accordingly, viewed in a light most favorable to the prosecution, we find that sufficient facts were presented for a rational trier of fact to find defendant was guilty of first-degree criminal sexual conduct.

Second, defendant argues that the probate court committed error requiring reversal when it disclosed to the jury during instructions that defendant had other charges filed against him. We disagree.

This Court reviews jury instructions as a whole to determine if there is error requiring reversal. *People v Daniel*, 207 Mich App 47, 53; 523 NW2d 830 (1994). Even if the instructions are imperfect, there is no error if they fairly presented the issues to be tried and sufficiently protected the defendant's rights. *Id.* The determination whether a jury instruction is accurate and applicable in view of all the factors in a particular case is within the sound discretion of the trial court. *People v Perry*, 218 Mich App 520, 526; 554 NW2d 362 (1996).

Although the trial court erred by inadvertently reading the wrong petition and informing the jury of other charges against defendant, we find that the error does not require reversal. The court corrected itself, and read the proper petition to the jury. The court strongly emphasized that the jury was to consider only the evidence admitted at trial. Moreover, the jury heard other testimony that defendant had been previously "locked up" and in "juvenile." The jury may well have inferred that defendant had previously faced criminal charges prior to the trial court's erroneous instruction. The court's overall instructions fairly represented the issues to the jury and protected defendant's rights. Accordingly, we find that the court did not commit error requiring reversal.

Affirmed.

/s/ David H. Sawyer
/s/ Harold Hood
/s/ Joel P. Hoekstra