

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 200700

Berrien Circuit Court

LC No. 96-000649-FH

DAVID EDWARD COWGILL,

Defendant-Appellant.

Before: Gribbs, P.J., and Murphy and Gage, JJ.

MURPHY, J. (concurring).

I concur in affirming defendant's conviction and sentence. I also would find no error in the trial court's pre-trial ruling to exclude the proffered testimony of the two defense witnesses who apparently would have testified that defendant told them that he and the complainant had consensual sexual relations before the night of the alleged sexual assault. This testimony, as offered, constituted hearsay and was appropriately excluded.

/s/ William B. Murphy