

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK STEVEN McKINNON,

Defendant-Appellant.

UNPUBLISHED

February 10, 1998

No. 196476

Macomb Circuit Court

LC No. 95-003141 FH

Before: Markey, P.J., and Doctoroff and Smolenski, JJ.

MEMORANDUM.

Defendant appeals by right his bench trial conviction of one count of second-degree criminal sexual conduct, MCL 750.520c; MSA 28.788(3). The victim was his eight-year-old stepdaughter (six years of age at the time of the offense). He contends that the trial court erred in admitting into evidence prior consistent statements of this complainant and her sister, as to whom additional charges of criminal sexual conduct resulted in defendant's acquittal.

A review of the trial court's findings of fact at the conclusion of the bench trial indicates that the older sister was insufficiently credible to satisfy the trier of fact beyond a reasonable doubt of defendant's guilt regarding CSC charges as to her. Regarding the conviction offense, the circuit court examined only prior inconsistent statements of the victim, concluding that the victim's trial testimony was both credible and sufficiently convincing to satisfy the prosecution's burden of proof beyond a reasonable doubt. Therefore, any error in admitting prior consistent statements, which were not relied upon in rendering a verdict, was harmless in the context of a bench trial. See, e.g., *People v Jones*, 134 Mich App 371, 373; 350 NW2d 885 (1984).

Affirmed.

/s/ Jane E. Markey

/s/ Martin M. Doctoroff

/s/ Michael R. Smolenski