

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LUIS DIAZ,

Defendant-Appellant.

UNPUBLISHED
October 30, 1998

No. 203791
Recorder's Court
LC No. 96-009096

Before: Young, Jr., P.J., and Wahls and Jansen, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of first-degree home invasion, MCL 750.110a(2)(b); MSA 28.305(a)(2)(b), and sentenced to four to twenty years' imprisonment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Viewing the evidence in a light most favorable to the prosecution, a rational trier of fact could find beyond a reasonable doubt that defendant committed first-degree home invasion. MCL 750.110a(2)(b); MSA 28.305(a)(2)(b); *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended on other grounds 441 Mich 1201 (1992). A rational trier of fact could find beyond a reasonable doubt from the testimony of the victim and her mother that defendant broke into and entered the victim's residence with the intent to commit criminal sexual conduct while the residence was lawfully occupied by the victim and her three younger siblings.

Defendant argues that the evidence is insufficient because the victim's testimony did not constitute "competent" evidence in light of the fact that the victim's testimony is "rife with contradiction," nonsensical, unsupported by corroborating evidence, and motivated by the victim's family's animosity towards defendant stemming from a past disagreement between defendant and the victim's sister's boyfriend. Defendant confuses "competent" evidence, that evidence which is admissible and relevant on the point in issue, *Hammann v City of Omaha*, 227 Neb 285; 417 NW2d 323, 325 (1987), with the credibility of the witness. Defendant's characterizations of the victim's testimony go to the credibility of the victim. The credibility of the witnesses is a matter for the

determination of the trial court sitting without a jury. *People v Geddes*, 301 Mich 258, 261; 3 NW2d 266 (1942).

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Myron H. Wahls

/s/ Kathleen Jansen