

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of GARY ADAM NEWTON, Minor.

---

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

GARY ADAM NEWTON,

Respondent-Appellant.

---

UNPUBLISHED

May 26, 2000

No. 212414

Oakland Circuit Court

Family Division

LC No. 97-063371-DL

Before: Markey, P.J., and Gribbs and Griffin, JJ.

PER CURIAM.

Respondent, a juvenile, was adjudicated responsible by a jury for one count of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), and two counts of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). He was ordered placed in a juvenile treatment facility. He appeals as of right. We affirm.

Respondent argues the trial court erred in refusing to conduct an in-camera review of the victims' counseling records. We review the trial court's decision for an abuse of discretion. *People v Fink*, 456 Mich 449, 458; 574 NW2d 28 (1998). Here, respondent's claim that the records were needed because the victims had made inconsistent statements about what respondent did to them was insufficient to justify production of the counseling records. *People v Stanaway*, 446 Mich 643, 677-679, 681; 521 NW2d 557 (1994). Accordingly, the trial court did not abuse its discretion in refusing to conduct an in-camera review of the records.

Next, respondent argues the trial court erred in admitting the hearsay statements of one of the victims under MRE 803A. We disagree. First, although Sheri Paul testified at trial before the victim testified, respondent agreed Paul could testify first, because she intended to also act as a support person for the victim, and the record indicates that Paul's testimony regarding the victim's statements was corroborative of the victim's testimony. Accordingly, we find no error in this regard. Second, although

the victim's statement was not made immediately after the incident, the circumstances indicate the delay was excusable as having been caused by fear. MRE 803A(3); *People v Dunham*, 220 Mich App 268, 272; 559 NW2d 360 (1996). Third, MRE 803A was not violated for the reason that more than one corroborative statement of the victim was offered. Paul testified regarding two separate statements made by the victim. Because this did not amount to cumulative evidence concerning the same statement, the limitation contained in MRE 803A against multiple corroborative statements does not apply. Thus, the trial court did not abuse its discretion in admitting the testimony under MRE 803A.

Finally, respondent argues the trial court abused its discretion when it found that the youngest child victim was competent to testify. We disagree. The record reveals a satisfactory basis for the court's conclusion that the witness possessed sufficient intelligence and sense of obligation to tell the truth. MCL 600.2163; MSA 27A.2163; *People v Breck*, 230 Mich App 450, 457; 584 NW2d 602 (1998). While there were some contradictions in the child's substantive testimony, once he was deemed competent to testify, such contradictions or questions about his testimony reflected on his credibility as a witness, not his competency. *People v Coddington*, 188 Mich App 584, 597; 470 NW2d 478 (1991). Also, the court was not required to place the child under oath. MCL 600.2163; MSA 27A.2163.

Affirmed.

/s/ Jane E. Markey

/s/ Roman S. Gibbs

/s/ Richard Allen Griffin