

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL A. WILLIS,

Defendant-Appellant.

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UNPUBLISHED

November 27, 2001

No. 224436

Delta Circuit Court

LC No. 99-006426-FC

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

PER CURIAM.

Defendant, who was accused by his young stepdaughter of sexually molesting her for years, appeals by right from his conviction by a jury of second degree criminal sexual conduct, MCL 750.520c(1)(a) (victim under age thirteen). The trial court sentenced him as a second-offense habitual offender, MCL 769.12, to eight to thirty years' imprisonment. We affirm.

Defendant first argues that the trial court erred by allowing the prosecution to present testimony regarding similar allegations against defendant by the complainant's sister. We review the admission of evidence for an abuse of discretion. *People v Knapp*, 244 Mich App 361, 377; 624 NW2d 227 (2001). Under MRE 404(b)(1), evidence of other crimes or wrongs "is not admissible to prove the character of a person in order to show action in conformity therewith." However, other-acts evidence may be admissible "for other purposes, such as proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identity, or absence of mistake or accident when the same is material. . . ." *Id.* To be admissible, other-acts evidence must be offered for a proper purpose, it must be relevant, and its probative value must not be substantially outweighed by the danger of unfair prejudice. *People v Sabin*, 463 Mich 43, 55-56; 614 NW2d 888 (2000).

Here, the challenged evidence was offered not to demonstrate defendant's propensity to molest young girls but was instead offered to explain why the complainant finally came forward to report her abuse after years of keeping it secret. Moreover, the evidence was relevant, because it helped make the complainant's testimony more credible; it explained why, after years of abuse, she finally had come forward with her accusations. The probative value of the evidence was high, especially because it helped refute the inference that the complainant came forward out of anger or revenge unrelated to sexual abuse. Finally, the trial court gave the jury a cautionary instruction, limiting the effect of any possible unfair prejudice. Under these circumstances, we

discern no abuse of discretion in the admission of the testimony. See *People v Wright*, 161 Mich App 682, 688-689; 411 NW2d 826 (1987).

Next, defendant argues that trial court should have sentenced him using the new legislative sentencing guidelines rather than the earlier judicial guidelines, because the offense might have been committed on or after January 1, 1999. See *People v Reynolds*, 240 Mich App 250, 253-254; 611 NW2d 316 (2000). The trial court evidently concluded that the offense occurred before January 1, 1999, and it therefore referred to the judicial sentencing guidelines in sentencing defendant.

We review a trial court's factual determinations for clear error. *People v Babcock*, 244 Mich App 64, 75-76; 624 NW2d 479 (2000). Factual matters at sentencing are determined under a preponderance of the evidence standard. *People v Purcell*, 174 Mich App 126, 130-131; 435 NW2d 782 (1989). The evidence in the record suggests that the last culpable conduct occurred no later than December 1998. Therefore, we find no clear error in the trial court's conclusion that the judicial guidelines applied.<sup>1</sup>

Finally, defendant argues that his trial attorney rendered ineffective assistance of counsel. However, in making this argument, defendant merely sets forth a laundry list of alleged errors and makes no attempt to explain, using relevant authority, why the errors require reversal. A party may not leave it up to this Court to unravel his arguments and search for authority to sustain his position. *People v Mackle*, 241 Mich App 583, 604 n 4; 617 NW2d 339 (2000). Accordingly, we decline to review this issue. *Id.* Even if we *were* to review this issue, we would find no basis for reversal, because (1) counsel's decision regarding whether to move for a mistrial or to call or question certain witnesses constituted trial strategy that we will not second-guess, see generally *People v Benton*, 402 Mich 47, 62-63; 260 NW2d 77 (1977) (suggesting how a mistrial sometimes can be disadvantageous to the defense), *People v Rockey*, 237 Mich App 74, 76; 601 NW2d 887 (1999), and *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1990); (2) a challenge to the bindover or the complaint and warrant would not have warranted relief, see generally *People v Goecke*, 457 Mich 442, 469; 579 NW2d 868 (1998) (explaining the standard for bindovers), and *People v Burrill*, 391 Mich 124, 128; 214 NW2d 823 (1974); and (3) a motion for JNOV properly would have been denied, and counsel was not required to advocate a meritless position. *People v Snider*, 239 Mich App 393, 425; 608 NW2d 502 (2000).

Affirmed.

/s/ Richard Allen Griffin  
/s/ Jane E. Markey  
/s/ Patrick M. Meter

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<sup>1</sup> Moreover, we note that in making his argument, defendant does not cite to the appropriate record on critical points. "A party may not merely state a position and then leave it to this Court to discover . . . the basis for the claim." *People v Mackle*, 241 Mich App 583, 604 n 4; 617 NW2d 339 (2000). See also MCR 7.212(C)(7) ("[f]acts stated [in an appellant's brief] must be supported by specific page references to the transcript, the pleadings, or other document or paper filed with the trial court").