

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEANGELO L. DENNIS,

Defendant-Appellant.

UNPUBLISHED

December 28, 2001

No. 226741

Wayne Circuit Court

LC No. 99-006545

Before: Meter, P.J., and Jansen and R. D. Gotham*, JJ.

PER CURIAM.

Defendant appeals as of right from convictions of six counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a), for which he was sentenced to concurrent terms of nine to twenty years in prison. We affirm.

In reviewing a nonjury criminal case, this Court “is required to review the entire record to determine whether the trial judge clearly erred.” *People v Rush*, 48 Mich App 478, 482; 210 NW2d 467 (1973). This Court must review the record to determine whether there was sufficient evidence to warrant a verdict of guilty beyond a reasonable doubt. *People v Garcia*, 398 Mich 250, 263; 247 NW2d 547 (1976). The trial court’s factual findings are reviewed for clear error. A finding of fact is considered “clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made.” *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

The elements of the crime charged are (1) that defendant engaged in sexual penetration with another person, and (2) the other person was under the age of thirteen. MCL 750.520b(1)(a); CJI 2d 20.1, 20.3; *People v Norman*, 184 Mich App 255, 260; 457 NW2d 136 (1990). The victims, both of whom were under the age of thirteen, testified that defendant performed cunnilingus on them and had them perform fellatio on him and that chocolate syrup was used in these acts. They also stated that he had intercourse with them. One child’s testimony was corroborated to some extent in that her aunt said she found chocolate syrup on the child. The other child’s testimony was corroborated to some extent in that her sister said she saw defendant perform the sexual acts on the child and a medical exam showed that the child had possible tearing of the vaginal opening. Such evidence, if believed was sufficient to prove each

* Circuit judge, sitting on the Court of Appeals by assignment.

element of the crime charged beyond a reasonable doubt and the court stated that it found both complainants to be credible.

Defendant argues that the victims were not credible witnesses and thus the trial court erred in finding that their testimony was sufficient to prove the crimes charged. We disagree. “As a general rule, the trial judge, as trier of fact, has the duty to weigh the testimony and assess the credibility of the witnesses.” *People v Snell*, 118 Mich App 750, 755; 325 NW2d 563 (1982). Because the trial court is in the best position to judge credibility, this Court will not substitute its judgment for that of the trial court but will defer to the trial court’s resolution of factual issues that involve the credibility of witnesses. *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997); *People v Martin*, 199 Mich App 124, 125; 501 NW2d 198 (1993). Given that plus the fact that witness credibility is a matter of weight, not sufficiency, *People v Scotts*, 80 Mich App 1, 9; 263 NW2d 272 (1977), we find no error.

Affirmed.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Roy D. Gotham