

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHAWNTELL MAURICE WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

October 26, 2004

No. 248373

Saginaw Circuit Court

LC No. 01-020539-FH

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of two counts of first-degree criminal sexual conduct, MCL 750.520b(1)(f). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant testified that defendant came to the home of a friend with whom she was babysitting, followed her to the basement, pushed her onto a bed, and penetrated her vagina with his fingers and penis. Complainant had seen defendant at the house on previous occasions. Medical evidence showed the presence of an abrasion on complainant's hymen consistent with a fingernail scrape. Complainant's account was corroborated by that of a sister and a friend who were at the house at the time of or shortly after the incident. Defendant testified that he and complainant went to the basement of the home to watch television. He denied that he touched complainant or sexually assaulted her. Defendant acknowledged that he had a prior conviction for larceny over \$100.¹

Defendant first argues that the trial court abused its discretion by allowing him to be impeached with his prior conviction. Evidence that a witness has been convicted of a crime is admissible if the crime contained an element of theft and was punishable by more than one year in prison, and the evidence would have significant probative value on the issue of credibility. MRE 609(a)(2)(A) and (B). If the witness is a criminal defendant, the probative value of the evidence must outweigh its prejudicial effect. MRE 609(a)(2)(B). We review the trial court's

¹ Defendant moved to exclude evidence of his prior conviction. The trial court denied the motion on the ground that the credibility of the witnesses would be at issue in the case.

decision to allow impeachment with a prior conviction for an abuse of discretion. *People v Coleman*, 210 Mich App 1, 6; 532 NW2d 885 (1995).

Defendant's credibility was an important aspect of his defense, but he raised doubts about his veracity during his testimony. Defendant testified that he and complainant watched television in the basement. However, prosecution witnesses testified consistently that there was no television in the basement. Defendant has not shown that the trial court abused its discretion by permitting him to be impeached with evidence of his prior conviction. *Id.* Furthermore, we conclude that in light of the strength of the other, untainted evidence, which was consistent and, in complainant's case, unequivocal, any error in permitting defendant to be impeached with evidence of his prior conviction did not undermine the reliability of the verdict. *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999); *People v McDaniel*, 256 Mich App 165, 168; 662 NW2d 101 (2003).

Defendant next argues that the evidence was insufficient to support his conviction because the prosecution failed to establish the element of personal injury. In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). We will not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002).

A person is guilty of first-degree criminal sexual conduct if he engages in sexual penetration with another person and causes personal injury to the victim, and force or coercion is used to accomplish the penetration. MCL 750.520b(1)(f). "Personal injury" is defined in part as "bodily injury" or "mental anguish." MCL 750.520a(l). Bodily injury and mental anguish are different ways of defining the single element of personal injury. *People v Asevedo*, 217 Mich App 393, 397; 551 NW2d 478 (1996). A conviction of first-degree criminal sexual conduct does not require separate, unanimous verdicts as to bodily injury and mental anguish. *Id.* A physical injury need not be permanent or substantial. *People v Mackle*, 241 Mich App 583, 596; 617 NW2d 339 (2000). Mental anguish consists of "extreme or excruciating pain, distress, or suffering of the mind." *People v Petrella*, 424 Mich 221, 259; 380 NW2d 11 (1985).

Complainant and her mother testified that after the incident complainant became depressed and withdrawn, her grades suffered, and she could not bring herself to talk about the incident in counseling. This evidence was sufficient to allow the jury to conclude that the prosecution proved beyond a reasonable doubt that complainant, who was thirteen years of age at the time of the incident, suffered mental anguish as a result of the incident. *Id.* The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction. *Wolfe, supra.*

We affirm.

/s/ William C. Whitbeck
/s/ Kathleen Jansen
/s/ Richard A. Bandstra