

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANGELO DONYA LAMB,

Defendant-Appellant.

UNPUBLISHED

April 3, 2008

No. 277145

Wayne Circuit Court

LC No. 06-012707-01

Before: Kelly, P.J., and Owens and Schuette, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of criminal sexual conduct in the third degree, MCL 750.520d(1)(a), and criminal sexual conduct in the fourth degree, MCL 750.520e(1)(a). Defendant was sentenced to 30 to 180 months for CSC III, and to time served for CSC IV. Defendant appeals as of right. We affirm.

Defendant argues that his constitutional right of confrontation was violated when the trial court precluded him from cross-examining complainant about her stepfather's sexual assault of defendant's girlfriend approximately six months before alleged incidents in this case. Defendant argues that the evidence would have established that complainant might have fabricated her allegations in retaliation for the accusation against her stepfather. We disagree.

A primary interest secured by the Confrontation Clause is the right of cross-examination. *Delaware v Van Arsdall*, 475 US 673, 678; 106 S Ct 1431; 89 L Ed 2d 674 (1986); *Douglas v Alabama*, 380 US 415, 418; 85 S Ct 1074; 13 L Ed 2d 934 (1965). "[L]imitation[s] on cross-examination that prevent[] a defendant from placing before the jury facts from which bias, prejudice, or lack of credibility of a prosecution witness might be inferred constitutes denial of the constitutional right of confrontation." *People v Kelly*, 231 Mich App 627, 644; 588 NW2d 480 (1998). However, "the right of cross-examination does not include a right to cross-examine on irrelevant issues." "[T]rial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination based on concerns about . . . interrogation that is repetitive or only marginally relevant." *People v Adamski*, 198 Mich App 133, 138; 497 NW2d 546 (1993), quoting *Van Arsdall*, *supra* at 679.

While complainant's credibility was a relevant issue, the stepfather's assault would not have had any significant tendency to make her credibility more or less probable, and was

therefore not relevant. See MRE 401; *People v Crawford*, 458 Mich 376, 388; 582 NW2d 785 (1998). At best, if at all, the assault was only marginally relevant since its probative value, if any, was so low that introduction of the evidence would be a waste of time. See *People v Osantowski*, 274 Mich App 593, 609; 736 NW2d 289 (2007). No one disputed that the assault on defendant's girlfriend occurred. However, there is only conjecture, unsupported by a reasonable view of the undisputed facts, to suggest that long after this event complainant might have wanted to retaliate against defendant's girlfriend or her family by fabricating a charge against defendant. She was supportive when defendant's girlfriend told her of the assault, and took action consistent with protecting defendant's girlfriend. In fact, complainant's report resulted in the stepfather being banished from her household. Simply put, there was no foundation for a challenge to complainant's credibility on this basis.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Donald S. Owens
/s/ Bill Schuette