

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
January 10, 2012

v

CHRISTOPHER JAMES PFEIFFER,

Defendant-Appellant.

No. 301614
Saginaw Circuit Court
LC No. 08-031729-FH

Before: MURPHY, C.J., and FITZGERALD and METER, JJ.

PER CURIAM.

A jury convicted defendant of second-degree criminal sexual conduct (CSC II) (victim under 13 years of age), MCL 750.520c(1)(a), and the trial court sentenced him to a prison term of 71 months to 15 years. Defendant appeals as of right. We affirm.

The complainant was ten years old at the time of trial in August 2010. She testified that during the summer of 2008 she was in the kitchen of her family's home playing with play dough at a table. Defendant, a friend of the complainant's mother, came into the kitchen through a blanket that was hanging in the doorway between the kitchen and the living room. Defendant first watched her, but then approached her and, while standing, put his hand inside her pants and touched her skin underneath her underwear. The complainant testified that defendant stopped touching her when her mother pulled down the blanket. According to the complainant's mother, Crystal, when she removed the blanket she observed defendant sitting next to the complainant at the table. Defendant's hands were initially under the table, but he pulled his arms up when Crystal pulled down the blanket. The complainant told Crystal that evening about what had happened. Crystal reported the incident to the police the next day.

Detective Ryan Oberle testified that defendant admitted that he was at the complainant's house and that a blanket separated the living room and the kitchen. Defendant also admitted that he was alone in the kitchen with the complainant while she was playing with play dough. He further admitted that Crystal came into the kitchen while he was in the kitchen with the complainant. Defendant did not admit, however, to touching the complainant.

Defendant's cousin testified that in approximately 2006 defendant lived with her family. Defendant "touched" her in her "private place" which she described as her vagina. She testified that defendant touched her on more than one occasion, and that he touched her both over and under her clothing. Defendant did not stop despite her objections to the touching.

On appeal, defendant argues that there was insufficient evidence to convict him of the charged offense. Specifically, defendant argues that the complainant's testimony was unclear and inconsistent, that she could not recall the exact date of the incident, and that there was no evidence to support the complainant's version of events.

We review claims of insufficient evidence de novo, *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001), to determine whether a rational trier of fact could conclude that all essential elements of the crime were proven beyond a reasonable doubt. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). We review all evidence in a light most favorable to the prosecution. *Id.* Circumstantial evidence and reasonable inferences can be considered, and all conflicts must be resolved in favor of the prosecution. *People v Lee*, 243 Mich App 163, 167-168; 622 NW2d 71 (2000). The jury determines the weight of the evidence and assesses witness credibility. *People v Bulls*, 262 Mich App 618, 623; 687 NW2d 159 (2004).

The essential elements of the offense of CSC II (victim under 13 years of age) include: (1) intentional touching of a person's intimate parts or the clothing covering the immediate area; (2) done for a sexual purpose, or in a sexual manner, or could reasonably be construed as being done for the purpose of sexual arousal or gratification; and (3) the person was under 13 years of age. MCL 750.520a(q); MCL 750.520c(1)(a). "[T]ime is not an element of a sexual assault offense." *People v Naugle*, 152 Mich App 227, 235; 393 NW2d 592 (1986).

The prosecution presented sufficient evidence from which the jury could conclude beyond a reasonable doubt that defendant committed the charged offense. It was undisputed that complainant was under thirteen years of age when the incident occurred. The complainant testified that defendant came into the kitchen, watched her for a time, and then placed his hand under her clothing and touched her "private area." The complainant defined her private area as the area between her legs. The jury could infer from this testimony that the complainant was referring to her vaginal area, and that defendant touched complainant's vaginal area for the purpose of sexual gratification. *Lee*, 243 Mich App at 167-168. Contrary to defendant's argument, the testimony of a sexual assault victim need not be corroborated. MCL 750.520h. Additionally, if the jury found beyond a reasonable doubt that defendant had touched his cousin in a manner similar to which the complainant was touched, the jury could consider that evidence in deciding whether defendant committed the offense against complainant. See MCL 768.27a. When all of the evidence is examined in a light most favorable to the prosecution, the evidence was sufficient for a rational trier of fact to conclude that all elements of the crime were proven beyond a reasonable doubt.

Affirmed.

/s/ William B. Murphy
/s/ E. Thomas Fitzgerald
/s/ Patrick M. Meter