STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1651

State of Minnesota,
Respondent,

vs.

Grant Lloyd Greenwood,
Appellant.

Filed September 5, 2017
Affirmed
Florey, Judge

Anoka County District Court
File No. 02-CR-15-7596

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Anothony C. Palumbo, Anoka County Attorney, Blair Buccione, Assistant County Attorney, Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Rodenberg, Presiding Judge; Kirk, Judge; and Florey, Judge.

U N P U B L I S H E D O P I N I O N

FLOREY, Judge

On appeal from his conviction of first-degree criminal sexual conduct, appellant argues that the evidence was insufficient to sustain the jury's finding of guilt. Appellant

also filed a pro se supplemental brief arguing that there were deficiencies in the investigation by law enforcement and that the prosecutor committed prejudicial misconduct during closing arguments. We affirm.

FACTS

In early 2009, appellant Grant Lloyd Greenwood began a romantic relationship with R.M. Shortly thereafter, appellant moved in with R.M., her two sons, and her nine-year-old daughter, V.M. After moving in with the family, appellant felt that it was his responsibility "to assume a role of a father." And when R.M. was required to travel for work, which was frequently, appellant supervised the children in her absence.

Shortly after appellant moved in with R.M., V.M. complained to her mother that appellant "put her foot on his penis." R.M. discussed the issue with appellant and V.M., and appellant told R.M. that "he would never do anything like that because he . . . had been a police officer." According to R.M., she "did not do anything" because she "believed" appellant and "trusted and loved" him.

Several years later, on November 17, 2015, an argument occurred between appellant and V.M. The argument culminated with appellant grounding V.M. from going to soccer practice that night, which greatly upset V.M. According to V.M., she then tried to leave, but appellant continued to yell at her, and would "propel his body forward so his stomach was - - would push [her] back."

V.M. told appellant that she was "going to call the police," and then left and went next door to her friend's house. V.M. was "hysterical," and told her friend's mother, H.H., that appellant had "bumped" her with his body. According to H.H., V.M. continued to be

"very hysterical," and repeatedly said that she "can't do this anymore," and that she did not "want to go home." H.H., who is a police officer, eventually asked V.M. if anything "sexual" happened. When V.M. was finally able to compose herself, she told H.H. that "[i]t happened in middle school."

H.H. contacted R.M., who arrived at H.H.'s house, where V.M., told her mother that she had been sexually abused by appellant. R.M. then called the police and, shortly thereafter, V.M. told Detective Thomas Strusinski during a videotaped interview that appellant had sexually abused her from shortly after he moved in until she was in middle school. Appellant was subsequently charged with one count of first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(a) (2012) (sexual contact with a person under the age of 13); one count of first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(h)(iii) (2012) (sexual penetration with a person under the age of 16 and the sexual abuse included multiple acts over an extended period of time by an individual with a significant relationship); and one count of second-degree criminal sexual conduct under Minn. Stat. § 609.343, subd. 1(h)(iii) (2012) (sexual contact with a person under the age of 16 and the sexual abuse included multiple acts over an extended period of time by an individual with a significant relationship). Appellant was also charged by separate complaint with misdemeanor domestic assault. The domestic assault charge was then joined for trial with the sexual-assault charges.

At trial, V.M.'s videotaped interview with Detective Strusinski was played for the jury. The videotaped statement, along with V.M.'s testimony, established that shortly after appellant moved in, he would rub V.M.'s feet against his crotch while they watched

television. According to V.M., appellant "gradually" began "doing more stuff," such as taking off her shirt and bra to "feel" and "lick" her breasts. V.M. claimed that the sexual abuse progressed to where appellant would digitally penetrate her vagina and put "his mouth on [her] vagina." V.M. further stated that because she did not want to touch appellant's penis, appellant "would want [her] to kiss his neck while" he masturbated. V.M. reported that the abuse stopped when she was in the eighth grade after appellant "made [her] touch his penis" and she told him that the sexual abuse was "wrong."

Appellant testified at trial and acknowledged the confrontation with V.M. on November 17. But appellant denied pushing V.M.; instead, he claimed that V.M. pushed him. Appellant also denied having any sexual contact with V.M.

The jury found appellant not guilty of misdemeanor domestic assault, and could not reach a verdict on the charge of first-degree criminal sexual conduct—sexual contact with a person under the age of 13. But the jury found appellant guilty of second-degree criminal sexual conduct, and first-degree criminal sexual conduct—sexual penetration with a person under the age of 16 and the sexual abuse included multiple acts over an extended period of time by an individual with a significant relationship. Appellant was then sentenced to 172 months in prison. This appeal followed.

D E C I S I O N

I.

When considering a claim of insufficient evidence, this court conducts "a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction," was sufficient to allow the jury to reach the verdict

that it reached. *State v. Caine*, 746 N.W.2d 339, 356 (Minn. 2008) (quotation omitted). We assume that the jury believed the state's witnesses and disbelieved any contrary evidence. *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the crime charged. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

Appellant was convicted of first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(h)(iii). To support a conviction under this statute, the state had to prove beyond a reasonable doubt that appellant had a significant relationship with V.M., that V.M. was under the age of 16 years old at the time of the sexual penetration, and that the "sexual abuse involved multiple acts committed over an extended period of time." *Id*.

Appellant argues that "V.M.'s uncorroborated testimony fails to establish beyond a reasonable doubt that [he] committed criminal sexual conduct." To support his claim, he cites *State v. Foreman*, in which the supreme court clarified that the lack of corroboration of a victim's testimony may require reversal if there are *additional* reasons to question the victim's credibility. 680 N.W.2d 536, 539 (Minn. 2004). Appellant contends that there are "many reasons" to doubt V.M.'s accusations, including (1) her hatred of appellant; (2) her delay in reporting the alleged abuse; (3) the lack of physical or medical evidence corroborating the allegations; and (4) the "vagueness and uncertainty" of V.M.'s testimony. Appellant argues that in light of these "additional reasons" to question V.M.'s credibility, his conviction must be reversed.

We disagree. In *Foreman*, the supreme court reiterated that "a conviction can rest on the uncorroborated testimony of a single credible witness." 680 N.W.2d at 539 (quoting *State v. Hill*, 285 Minn. 518, 518, 172 N.W.2d 406, 407 (1969)). Although the supreme court acknowledged that reversal of a conviction may be warranted in situations where there are "additional reasons to question the victim's credibility," the court stated that "[a]s long as the evidence [is] sufficient to reasonably support the jury's finding, the credibility of a witness [is] for the jury to determine." *Id.* The supreme court then affirmed the defendant's conviction, concluding that "there were no other reasons to question [the victim's] credibility and her testimony at trial was not contradicted." *Id.*

Here, V.M. reported to Detective Strusinski that shortly after moving in with R.M., appellant began rubbing V.M.'s feet against his crotch while they watched television. V.M. also reported that appellant "gradually" began "doing more stuff," such as removing her shirt to "lick" and "feel" her breasts, and that the sexual abuse progressed to where appellant digitally penetrated her vagina and put "his mouth on [her] vagina." V.M.'s testimony at trial was consistent with her videotaped statement to Detective Strusinski that was played for the jury. Moreover, R.M. testified that shortly after appellant moved in, V.M. "complained that [appellant] put her foot on his penis." R.M.'s testimony tends to corroborate V.M.'s testimony concerning the sexual abuse. In addition, the record reflects that V.M. was extremely emotional at the time she reported the abuse, which further tends to corroborate her testimony. *See State v. Reinke*, 343 N.W.2d 660, 662 (Minn. 1984) (stating that evidence of the victim's emotional condition at the time she complained to others is corroborating evidence of a victim's testimony). V.M.'s testimony, if believed,

was sufficient to establish appellant's guilt of first-degree criminal sexual conduct under section 609.342, subd. 1(h)(iii). Although V.M.'s testimony could have been more specific, and she clearly expressed her disdain for appellant, giving her a motive to fabricate the alleged events, appellant's attorney cross-examined the state's witnesses about these issues and discussed them in closing argument. The jury's verdict reflects its rejection of those arguments in favor of the state's witnesses and evidence, and it is well settled that we defer to the jury's assessment of witness credibility. *State v. Green*, 719 N.W.2d 664, 673-74 (Minn. 2006). Therefore, in light of the deference owed to the jury's credibility determinations, the evidence was sufficient to sustain appellant's conviction of first-degree criminal sexual conduct.

II.

Appellant filed a pro se supplemental brief arguing that (1) there were deficiencies in the investigation that rendered his conviction unfair and (2) the prosecutor engaged in prejudicial misconduct during closing argument.

A. Investigation

"[T]he suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment . . . ." *Brady v. Maryland*, 373 U.S. 83, 87, 83 S. Ct. 1194, 1196-97 (1963). "To establish a *Brady* violation, it must be true that: (1) the evidence at issue is favorable to the accused, either because it is exculpatory or it is impeaching; (2) the evidence was willfully or inadvertently suppressed by the State; and (3) prejudice to the accused resulted." *State v. Brown*, 815 N.W.2d 609, 622 (Minn. 2012).

Appellant argues that the investigation was insufficient because it should have included an examination of his criminal history, his computer, and V.M.'s cell phone. Appellant contends that "[i]f [law enforcement] did conduct any investigation following [his] arrest, and found absolutely nothing, which is exactly what [appellant] is confident has occurred," then "there is a very clear *Brady* violation in this case." But appellant fails to establish any of the elements necessary to demonstrate that a *Brady* violation occurred. Moreover, appellant fails to support his argument with legal authority or arguments beyond mere speculation. Therefore, no further consideration of his argument is necessary. *See State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) ("We will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority."), *cert denied*, 556 U.S. 1134 (2009).

B. Prosecutorial misconduct

Appellant claims that the prosecutor committed misconduct during closing argument by using the term "illiosyncratic responses." But appellant did not object to the alleged misconduct during closing argument. Therefore, the issue is reviewed under a modified plain-error test. *State v. Carridine*, 812 N.W.2d 130, 146 (Minn. 2012). Under this standard, the defendant must first establish that the misconduct constitutes error and that the error was plain. *Id.* If prosecutorial misconduct amounts to plain or obvious error, the burden shifts to the state to demonstrate that its misconduct did not prejudice the defendant's substantial rights. *State v. Ramey*, 721 N.W.2d 294, 300 (Minn. 2006).

Here, as the state points out, the prosecutor did not use the term "illiosyncratic responses"[1] in her closing argument; she used the term "idiosyncratic details." The prosecutor then defined the term as "details - - sensing details, descriptions." The prosecutor's definition of the term is accurate, as was her use of the term. *See The American Heritage Dictionary of the English Language* 897 (3rd ed. 1992). Therefore, appellant is unable to demonstrate that the prosecutor committed misconduct during closing argument.

Affirmed.

[1] "Illiosyncratic" does not appear to be a recognized word in the English language.