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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0935**

State of Minnesota,
Respondent,

vs.

Damon Lamont Banks,
Appellant.

**Filed June 15, 2020
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CR-17-28140

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Segal, Chief Judge; Ross, Judge; and Cochran, Judge.

UNPUBLISHED OPINION

ROSS, Judge

The district court convicted Damon Banks of first-degree criminal sexual conduct after a bench trial during which Banks's friend's daughter testified that Banks had sexually abused her over a multiple-year span. Banks argues on appeal that the evidence is

insufficient to support his conviction because the victim's testimony was not corroborated and her credibility had flaws. But we do not reweigh credibility on appeal, and a conviction can rest on the uncorroborated testimony of a single credible witness. We therefore affirm.

D E C I S I O N

Banks does not present a persuasive argument for us to reverse his conviction of first-degree criminal sexual conduct. He maintains that the evidence is insufficient to prove beyond a reasonable doubt that he sexually abused the victim. When reviewing the sufficiency of the evidence, we “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the [fact-finder] to reasonably conclude that the defendant was guilty beyond a reasonable doubt.” *State v. Boldman*, 813 N.W.2d 102, 106 (Minn. 2012). We view the evidence in the light most favorable to the verdict and assume that the fact-finder disbelieved any evidence conflicting with the verdict. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016). Banks cannot prevail under that standard.

Banks argues specifically that the evidence does not support the finding that he engaged in sexual penetration or sexual contact with the victim. *See* Minn. Stat. § 609.342, subd. 1(a) (2002). He is wrong. A conviction can rest on the testimony of a single credible witness, *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004), and the 19-year-old victim testified that, on multiple occasions when she was between the ages of about 3 and 12, Banks engaged in various conduct that supports the conviction. She recalled one occasion when she was eight years old when she went to sleep clothed on an air mattress but awoke naked with Banks asleep beside her. She recounted an occasion when, while she sat on

Banks's lap watching television, he put his fingers inside her vagina and the motion of his hand "was like penetration, rubbing." She said that this was such a common occurrence that it became customary, testifying, "It was . . . like it was normalized. . . . It wasn't strange to me. I didn't think anything of it." She recalled playing with a toy doctor set and Banks saying that it was his "turn" to play. She said he urged her to pretend that she had a broken leg, leading to sexual penetration: "And so he lifted one leg And then my other leg was broken and he lifted both legs and like penetration happened at that point. . . . And when I say penetration I'm referring to through my vagina with his penis." The victim testified that Banks's penile and digital penetration occurred multiple times but that she could not estimate the number of times he raped her. This testimony includes details that plainly meet the statutory element of sexual contact or penetration.

Banks contends that this testimony was not credible. But witness credibility is a question for the fact-finder to decide, *State v. Landa*, 642 N.W.2d 720, 725 (Minn. 2002), and the district court credited the testimony. He maintains that the victim's testimony was not corroborated by other evidence. But corroboration of a sexual-abuse victim's testimony is not required. Minn. Stat. § 609.347, subd. 1 (2018). In rare cases, courts have recognized that, where the sexual-abuse victim was a child, testimony might be insufficient to support a conviction without corroboration if good reason exists to doubt that the sexual abuse actually happened. *See State v. Huss*, 506 N.W.2d 290, 292–93 (Minn. 1993) (reversing criminal-sexual-conduct conviction when the only direct evidence was a young child's "particularly troublesome" testimony and the child was exposed to a "highly suggestive" book and tape about sexual abuse that may have caused her to imagine the abuse); *see also*

State v. Ani, 257 N.W.2d 699, 700 (Minn. 1977) (“[T]he absence of corroboration in an individual case may well call for a holding that there is insufficient evidence upon which a jury could find the defendant guilty beyond a reasonable doubt.” (quotation omitted)). This is not such a case. Here, a 19-year-old woman described multiple episodes of Banks’s sexual misconduct dating back through several years of her childhood.

Banks lists various reasons to disbelieve the victim’s account. He complains that the state presented no witness who saw Banks acting inappropriately towards the victim; that she recounted only five specific incidents of abuse or misconduct while she claimed that the abuse occurred on many more occasions; that she testified that she witnessed Banks behaving inappropriately with her brother while the brother denied that the event ever occurred; and that she told her father about Banks’s misconduct with her brother while her father could not recall her ever having told him about the incident. These credibility challenges provide a reasoned ground on which a fact-finder might have disbelieved the victim, but they did not persuade the fact-finder here. The district court expressly commented on the victim’s inability to recall every instance of abuse and inconsistencies between her account and the testimony of other witnesses, and it rejected these circumstances as a basis for doubting her testimony. And none of the reasons cited by Banks justifies the extraordinary relief of reversal of a fact-finder’s credibility determination on appeal.

Affirmed.