

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-10-00081-CR**

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**DAVID FITZGERALD CLAYTON A/K/A DAVID F. CLAYTON, JR. A/K/A  
DAVID FITZGERALD CLAYTON, JR., Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 252nd District Court  
Jefferson County, Texas  
Trial Cause No. 08-04378**

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**MEMORANDUM OPINION**

A jury convicted David Fitzgerald Clayton<sup>1</sup> of aggravated sexual assault of a child. The evidence is sufficient to support the verdict. We affirm the judgment.

The elements of aggravated sexual assault of a child, as applied in this case, are as follows: a person intentionally or knowingly causes the sexual organ of a child younger than fourteen to contact or penetrate the mouth, anus, or sexual organ of another person.

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<sup>1</sup>The record reflects that David Fitzgerald Clayton is also known as David F. Clayton, Jr. and David Fitzgerald Clayton, Jr.

See Tex. Pen. Code Ann. § 22.021(a)(1)(B)(iii), (2)(B) (West Supp. 2010). Clayton challenges the factual sufficiency of the evidence to support the conviction. In *Brooks v. State*, the Texas Court of Criminal Appeals held that the standard in *Jackson v. Virginia* is “the only standard that a reviewing court should apply in determining whether the evidence is sufficient to support each element of a criminal offense that the State is required to prove beyond a reasonable doubt.” *Brooks v. State*, No. PD-0210-09, 2010 WL 3894613, at \*14 (Tex. Crim. App. Oct. 6, 2010) (not yet released for publication); see also *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). Therefore, we address Clayton’s issue under the *Jackson v. Virginia* standard. We review all the evidence in the light most favorable to the prosecution to determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Jackson*, 443 U.S. at 319; *Ross v. State*, 133 S.W.3d 618, 620 (Tex. Crim. App. 2004). The *Jackson* standard “gives full play to the jury’s responsibility to fairly resolve conflicts in the evidence, to weigh the evidence, and to draw reasonable inferences from the evidence.” *Williams v. State*, 301 S.W.3d 675, 684 (Tex. Crim. App. 2009), *cert. denied*, 130 S.Ct. 3411, 177 L.Ed.2d 326, 78 U.S.L.W. 3729 (2010).

The accounts of the events of that night are in conflict. L.H., the mother of eleven-year-old J.P., testified she found J.P. nude from the waist down on the side of Clayton’s bed. Clayton was nude from the waist down. J.P. testified Clayton threatened her with a knife and sexually assaulted her. Clayton denied the assault and claimed L.H. wanted

drugs. The police found a knife on the bed and a child's pair of black flip-flops at the foot of the bed.

The jury had a duty “to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts.” *Young v. State*, 283 S.W.3d 854, 861 (Tex. Crim. App. 2009), *cert. denied*, 130 S.Ct. 1015, 175 L.Ed. 2d 622, 78 U.S.L.W. 3360 (2009) (quoting *Jackson*, 443 U.S. at 319). The jury could reasonably find the accounts of L.H. and J.P. to be more credible than the account of Clayton. From the testimony of L.H., J.P., and the officers, and the presence of the physical evidence (knife on the bed and J.P.'s flip-flops in Clayton's bedroom), the jury could reasonably conclude that Clayton committed the offense of aggravated sexual assault. Having reviewed all the evidence in the light most favorable to the verdict, we conclude that a rational juror could have found the essential elements of the crime beyond a reasonable doubt.

The judgment is affirmed.

AFFIRMED.

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DAVID GAULTNEY  
Justice

Submitted on November 18, 2010  
Opinion Delivered January 12, 2011  
Do Not Publish

Before Gaultney, Kreger, and Horton JJ.