IN THE UTAH COURT OF APPEALS

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State of Utah, Plaintiff and Appellee, v. Michael Ieromnimon, Defendant and Appellant.	MEMORANDUM DECISION (Not For Official Publication) Case No. 20050064-CA F I L E D (May 11, 2006) 2006 UT App 190

Third District, Salt Lake Department, 031907602
The Honorable Ann Boyden

Attorneys: Margaret P. Lindsay, Orem, and Patrick V. Lindsay, Provo, for Appellant
Mark L. Shurtleff and Joanne C. Slotnik, Salt Lake City, for Appellee

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Before Judges Bench, McHugh, and Thorne.

BENCH, Presiding Judge:

Defendant Michael Ieromnimon appeals a conviction of one count of sexual abuse of a child, a third degree felony, in violation of Utah Code section 76-5-404.1. See Utah Code Ann. § 76-5-404.1 (2003). Ieromnimon argues that the trial court erred by denying his motion to dismiss. "The grant or denial 'of a motion to dismiss is a question of law [that] we review for correctness, giving no deference to the decision of the trial court.'" State v. Hamilton, 2003 UT 22,¶17, 70 P.3d 111 (alteration in original) (quoting Krouse v. Bower, 2001 UT 28,¶2, 20 P.3d 895) (other citations omitted). "[I]f upon reviewing the evidence and all inferences that can be reasonably drawn from it, the court concludes that some evidence exists from which a reasonable jury could find that the elements of the crime had been proven beyond a reasonable doubt, we will uphold" the trial court's denial of Ieromnimon's motion to dismiss. Id. at ¶41 (quotations and citations omitted).

Ieromnimon contends that the State failed to produce sufficient evidence to show that the touching occurred "with the intent to arouse or gratify the sexual desire of any person." Utah Code Ann. § 76-5-404.1(2). However, intent "can often be inferred from circumstance[s]." State v. Emmett, 839 P.2d 781, 784 (Utah 1992). The trial court discussed the circumstances in this case as follows:

> I do think that intent in these type of cases is a type of element that can only be proven by the circumstances that are set up, and that there has been evidence presented that the rubbing went on even after the young victim stated that she wanted it to stop. That it was in circumstances of early morning hours after sleeping together, a whole group in a room where there is sleeping, lying on the floor, lying on the couch. There has been testimony as to the fact that the defendant was aroused in the immediate time frame just around this incident, and all of those circumstances together does rise to the level that the trier of fact may then look to that evidence and determine whether the touching . . . was with the intent necessary to reach a guilty verdict on the sexual abuse of a child. I will let it go to the jury.

We conclude that the State presented sufficient evidence for a reasonable jury to infer the requisite intent. Therefore, the trial court did not err in denying the motion to dismiss. See Hamilton, 2003 UT 22 at ¶41.

Ieromnimon also suggests that the evidence was insufficient to sustain the conviction. "In reviewing a jury verdict, we view the evidence and all reasonable inferences drawn therefrom in a light most favorable to the verdict." Id. at ¶18 (quotations and citation omitted). Because the jury could find the requisite intent from the reasonable inferences, the evidence was sufficient to support a conviction of sexual abuse of a child.

Accordingly, we affirm.

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Russell W. Bench,
Presiding Judge

WE CONCUR:

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Carolyn B. McHugh, Judge

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William A. Thorne Jr., Judge