

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20090476-CA
v.)	
)	F I L E D
Michael Paul Maness,)	(December 23, 2010)
)	
Defendant and Appellant.)	2010 UT App 370

Fifth District, St. George Department, 041501243
The Honorable G. Rand Beacham

Attorneys: Randall W. Richards, Ogden, for Appellant
Mark L. Shurtleff and Erin Riley, Salt Lake City, for
Appellee

Before Judges Davis, McHugh, and Orme.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under applicable law.

"The standard of review for a sufficiency claim is highly deferential to a jury verdict." State v. Workman, 2005 UT 66, ¶ 29, 122 P.3d 639. We "review[] 'the evidence and all inferences which may be reasonably drawn from it in the light most favorable to the verdict.'" We will reverse a jury verdict for insufficient evidence only if we determine that 'reasonable minds could not have reached the verdict.'" Id. (citations omitted).

Defendant concedes that he touched the breasts and/or genitals of various women while giving them massages, but denies that such touching was done with the requisite "intent to arouse or gratify the sexual desire of any person." See Utah Code Ann. § 76-5-404(1) (Supp. 2010). We conclude the evidence is sufficient to support the jury's verdict.

"[I]ntent need not be proved by direct evidence, but may be inferred from [the] defendant's conduct and surrounding circumstances." State v. Davis, 711 P.2d 232, 234 (Utah 1985) (per curiam). See State v. Cooley, 603 P.2d 800, 802 (Utah 1979). The evidence here, viewed in the light most favorable to the jury's verdict, established that Defendant intentionally touched the victims' breasts and genitalia; did not obtain written permission from the victims before touching their breasts; manipulated the cloth drape, entered the room early, and lingered in the room following massages, allowing him to view the victims' naked bodies; touched the victims' genitalia during a massage procedure that should be performed without touching the genitalia; and touched the victims' breasts in a location and manner that "would never be part of massage therapy," even if there had been written consent. Based on this evidence, we conclude that "the jury could properly draw the inference that defendant had the intent to arouse or gratify his own sexual desire," State v. Hall, 946 P.2d 712, 724 (Utah Ct. App. 1997), cert. denied, 953 P.2d 449 (Utah 1998).

Affirmed.

Gregory K. Orme, Judge

WE CONCUR:

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge