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No. 3-09-0873

Order filed March 1, 2011

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IN THE APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois
Plaintiff-Appellee,	)	
v.	)	No. 06-CF-3106
R.J. KREINHEDER,	)	Honorable Richard C. Schoenstedt, Judge, Presiding.
Defendant-Appellant.	)	

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PRESIDING JUSTICE CARTER delivered the judgment of the court.  
Justices Schmidt and Wright concurred in the judgment.

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**ORDER**

*Held:* The defendant challenged the sufficiency of the evidence to convict him of aggravated criminal sexual abuse. The appellate court upheld the circuit court's factual findings and affirmed the defendant's conviction and sentence.

The defendant, R.J. Kreinheder, was convicted of aggravated criminal sexual abuse (720 ILCS 5/12-16(b) (West 2004)) and was sentenced to six years of imprisonment. On appeal, the defendant argues that the State failed to prove him guilty beyond a reasonable doubt. We affirm.

FACTS

On January 11, 2007, the State charged the defendant with two counts of aggravated

criminal sexual abuse (720 ILCS 5/12–16(b) (West 2004)). Count I alleged that the defendant knowingly grabbed the breast of N.C. for the purpose of the defendant’s sexual gratification. The counts were separated and the case went to a bench trial on count I.

At the bench trial, testimony revealed that the defendant was married to N.C.’s mother between 1999 and 2005. N.C. was the defendant’s stepdaughter. The incidents of abuse allegedly occurred between 2004 and 2005 during N.C.’s fifth grade school year. There was no physical evidence of this abuse and no incriminating statements from the defendant. The case hinged on N.C.’s word against the defendant’s word.

N.C. testified that during the 2004-05 school year when she was 11 years old, the defendant came into her bedroom on multiple mornings to help wake her up. N.C. typically would be wearing pajama pants and either a short-sleeve or long-sleeve shirt without a bra. The defendant would lay in bed with her and rub her back for a short time. On one occasion toward the beginning of the school year, the defendant also rubbed N.C.’s stomach. On another occasion around the middle of the school year, the defendant rubbed N.C.’s stomach and moved to her chest. The defendant rubbed her breasts underneath her shirt, but did not touch her nipples. He never said anything to her or took off his clothes, and she never said anything to him. He never touched himself or attempted to make her touch him. These incidents continued throughout the school year and stopped just before the defendant and N.C.’s mother separated in June 2005, when the defendant moved out of the house.<sup>1</sup>

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<sup>1</sup> Testimony from N.C. and her mother indicated that after the defendant moved out, N.C. only saw the defendant on a few occasions. The defendant claimed he saw N.C. every other weekend between June 2005 and November 2006.

N.C. testified that she attempted to thwart the defendant's touch by wearing a sports bra, pushing herself up against the wall, locking her door, and laying on the side of the bed that the defendant would lay on once he entered the room. None of these actions prevented the touching from occurring. She did not say anything to stop the defendant or attempt to prevent the touching once it began because she was afraid of him. The defendant had been verbally abusive to her in the past, and she had also witnessed the defendant physically abuse her mother.

N.C. did not tell anyone about the incidents until November 2006 when she talked about them with her uncle. She indicated that she told her uncle because she trusted him. She indicated that she did not feel comfortable telling her biological father or any of her friends. Other testimony established that the defendant and N.C.'s mother argued a lot and that he had an alcohol problem.

The defendant testified that he never touched N.C.'s breasts. On the few occasions he had to help N.C. wake up, he would sit at the end of her bed and rub her back. He also testified that after he moved out in June 2005, he and N.C.'s mother were trying to reconcile. The defendant mentioned the possibility of reconciliation several times to N.C.

N.C.'s mother testified that she was never interested in reconciling, even though the defendant wanted to get back together between the time he moved out and the finalizing of the divorce in November 2005. She never told N.C. that she and the defendant were trying to reconcile. In her testimony, N.C. denied having any conversation with her mother about reconciliation after the defendant moved out.

On February 24, 2009, the court announced its decision. The court initially noted that credibility was of paramount importance to the decision because the case came down to N.C.'s

word against the defendant's word.

With regard to N.C., the court stated:

“[t]his Court observed [N.C.] while she testified, and took notice of not just what she said but also her manner and demeanor. I wrote some notes regarding my impressions of her testimony at the time of her testimony which include the following: She's thoughtful, scared, nervous, honest. She wasn't making up answers. She tried not to guess, if she didn't know, she said so. She gave answers even if not in her favor.”

The court also noted that N.C.'s delay in reporting the incident negatively impacted her credibility. However, the court dispelled those concerns:

“[a]s to the issue of delay, this Court finds that during the relevant time [N.C.] was 11 years old. Her mother was ill and [N.C.] knew it. She had no close friends to confide in, and she had personally observed her mother and the defendant in physical altercations and arguments. This evidence is uncontroverted, and it sufficiently explains the delay in reporting.”

The court also addressed N.C.'s motive to lie about the abuse. In this regard, the court stated that there was no possibility of reconciliation at the time N.C. reported the abuse to her uncle. Further, the court found the testimony credible with regard to the minimal number of times N.C. saw the defendant after he moved out, while the defendant stood alone in his claim that he saw N.C. every other weekend after he moved out.

The court weighed the evidence and found N.C. to be the credible witness and therefore found the defendant guilty. The court later sentenced the defendant to six years of imprisonment.

The defendant appealed.

## ANALYSIS

On appeal, the defendant argues that the State failed to prove him guilty beyond a reasonable doubt.

When a defendant challenges the sufficiency of the evidence to convict, we view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). “[D]eterminations of the credibility of witnesses, the weight to be given their testimony, and the reasonable inferences to be drawn from the evidence are responsibilities of the trier of fact.” *People v. McLaurin*, 184 Ill. 2d 58, 79 (1998). On review, we will not retry the defendant or substitute our judgment for that of the trier of fact. *People v. Sucic*, 401 Ill. App. 3d 492, 507 (2010).

Of relevance to this case, a person “commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was under 18 years of age when the act was committed and the accused was a family member.” 720 ILCS 5/12–16(b) (West 2004). A lack of physical evidence of sexual misconduct is not fatal to the prosecution’s case. *People v. Shum*, 117 Ill. 2d 317, 356 (1987). Also, the testimony of only one credible witness can support a conviction. *People v. Smith*, 185 Ill. 2d 532, 541 (1999).

Viewing the evidence in the light most favorable to the prosecution, we conclude that the defendant’s conviction was proper. The circuit court properly identified that the case came down to witness credibility. N.C. testified that the defendant rubbed her breasts underneath her shirt. While she attempted to thwart the defendant’s touch in several ways, none were successful, and

she was too afraid to say anything or stop the defendant once the touching began. She was afraid of the defendant because he had been verbally abusive with her and physically abusive with N.C.'s mother, which was a primary reason why she did not tell anyone about the abuse for a year-and-a-half. In its decision, the court specifically noted its credibility assessments of N.C. The court detailed its reasons for discounting any negative impact of N.C.'s delay in reporting the abuse. The court weighed the evidence and indicated that it found the defendant not credible, in particular with regard to the testimony about reconciliation. There is nothing in the record to suggest that the court erred when it weighed the testimony in favor of N.C. Under these circumstances, we hold that a rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt.

For the foregoing reasons, we affirm the judgment of the circuit court of Will County.

Affirmed.