2015 IL App (1st) 132061-U

THIRD DIVISION
October 7, 2015

No. 1-13-2061

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 07 CR 13418
	)	
KEVIN JAMES,	)	Honorable
	)	Anna Helen Demacopoulos,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Mason and Justice Pucinski concurred in the judgment.

O R D E R

¶ 1 ***Held:*** Sexual abuse victim's statements to sexual assault nurse examiner were not inadmissible under the rule against hearsay where nurse's purpose in speaking to child was to both treat her and collect evidence. Trial court did not abuse its discretion in determining that victim's statements to her brother and neighbor were reliable, and thus, admissible where victim had no motive to lie, was visibly upset, and made consistent allegations to both individuals.

¶ 2 Defendant Kevin James was charged by indictment with predatory criminal sexual assault of a child, 12-year-old "B.W." Following a bench trial, he was found guilty and sentenced

to 25 years in prison. On appeal, defendant contends that the trial court erroneously admitted hearsay statements B.W. made to a sexual assault nurse examiner under section 115-13 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/115-13 (West 2012)), because the statements were made for the purpose of evidence collection and not medical treatment. He also contends that the court erroneously determined that statements made by B.W. to her brother and a neighbor were admissible under section 115-10 of the Code (725 ILCS 5/115-10 (West 2012)), because the inconsistencies in the witnesses' testimony rendered it unreliable. We affirm.

¶ 3 Prior to trial, the State filed a motion pursuant to section 115-10 seeking to admit statements B.W. made to Bryant W., her older brother, and Laquita Taylor, a neighbor. The motion also sought the admission of statements B.W. made to her mother, Lachelle W., but the State did not introduce Lachelle's testimony at the hearing on its motion or at trial.

¶ 4 At the hearing, Taylor testified that B.W. rang the doorbell to her house around 4 p.m. on June 25, 2006. B.W. was crying and "terrified." When B.W. asked to speak with her, Taylor walked out onto the porch and asked, "What's wrong?" B.W. told her that "she was in the mother's room when her mother's cousin came into the room and began to talk about the birds and bees and then forced her down on the bed and began to rape her. * * * She began to say that he inserted his penis in her vagina, which hurted her; and that was all." B.W. used the words "rape," "penis," and "vagina." Taylor spoke with B.W. for 30 minutes. On cross-examination, Taylor testified that Bryant W. arrived at the house approximately one minute after B.W., but he went inside to talk to Taylor's brother. He came back to the porch after Taylor and B.W. had finished talking.

¶ 5 Bryant testified that on the afternoon of June 25, 2006, he was 14 years old and at home with his 12-year-old sister, B.W. Defendant, their mother's cousin, was also at the house. At 3 or 4 p.m., Bryant's mother called and asked him where B.W. was. He went around to several of the neighboring houses, and searched inside the house. After 15 to 30 minutes of searching, he went to the Taylors' house and defendant followed him. At the Taylors' house, Bryant found B.W. crying and talking to LaQuita Taylor on the porch. Several other people were standing nearby. He asked B.W., "What's wrong; what happened? Did Kevin do something to you? Did Kevin rape you?" She told him that "yes, Kevin raped her." She said that "it hurt so bad" or "it hurt very bad" four or five times. As they talked, B.W. "was grabbing her groin." After 20 minutes, Bryant took B.W. home.

¶ 6 The trial court ruled that B.W.'s statements to Bryant that "she had been raped" and that "it hurt" were admissible, but he could not testify how many times she had said "it hurt." It also ruled that B.W.'s statements to Taylor were admissible, but Taylor did not subsequently testify at trial.

¶ 7 At trial, B.W. testified that on June 25, 2006, she was 12 years old and living in Hazel Crest with her mother, sister, and brother. That morning, B.W.'s mother went out, leaving B.W. and Bryant alone with defendant. At about 4 p.m., B.W. sat on the bed in her mother's room watching television. Defendant entered the room and sat down beside her. Feeling "uncomfortable," B.W. moved to the opposite side of the bed. Defendant lay back on the bed and "started talking about like the birds and the bees and just things that were weird." She told defendant she did not want to talk about it. As she got up to leave, defendant followed her. He

pushed her back onto the bed and held her down with his upper body, pulling her underwear down beneath her dress. Though she could not see what defendant was doing with his hands or his clothing, she could feel that his penis was out. He placed his penis inside of her vagina. B.W. "felt like burning, like a pain." She began to cry and asked defendant to stop. When she told him that he was hurting her, defendant responded, "I know, I know." He removed his penis, and B.W. felt it against her inner thigh. She felt "stickiness and warm, like liquid." He got off of her and told her to clean up. After telling her to "keep it between us," defendant went into the bathroom. Looking down at her thigh, B.W. saw a "white and liquidy" fluid. She dabbed at her thigh with a blanket and pulled her underwear up.

¶ 8 B.W. then left the house and walked down the street to the Taylors' house. When she knocked, Laquita Taylor answered the door and let her call her mother. After the call, she spoke with Taylor for about five minutes before Bryant arrived with defendant behind him. Defendant angrily asked "[D]id you tell them that I did something to you?" or "What's going on, are you okay?" Bryant told her that they should return to the house. She was unable to run due to the pain and held her "crotch" to try and soothe the pain. Defendant continued to follow them. At the house, B.W. tried to lock herself in the bathroom, but defendant was able to enter. When Bryant could not get defendant to leave, the siblings returned to the Taylors' house. Defendant again followed them, but he ran away when police cars approached. After speaking with the police, B.W. was taken to the hospital. A nurse and a doctor examined B.W. and gave her medicine. During a sidebar during cross-examination, defendant made an offer of proof that B.W. had

previously been the victim of a predatory sexual assault in 2002 with vaginal penetration. The trial court suggested a stipulation to that fact, and the parties so stipulated.

¶ 9 Bryant testified that he was playing videogames in his room with defendant on the afternoon of June 25, 2006. When defendant left to watch television in Bryant's mother's room, Bryant went to the basement. An hour later, his mother called asking where B.W. was. Bryant went to three or four neighboring houses looking for his sister. He then returned to his own house and searched. When he could not find B.W., he again left the house and defendant followed him. Bryant found B.W. crying and holding her groin on the porch of the Taylors' house. She was speaking with Laquita Taylor. Bryant asked her "what was wrong?" and "did Kevin rape you?" She told him "yes, and it hurt." Bryant took her home, but defendant continued to follow them. Bryant locked the front door and hid B.W. in the bathroom, but defendant entered through the unlocked back door. After defendant refused to leave, Bryant brought B.W. back to the Taylors' house. The police arrived and defendant ran away.

¶ 10 Nicole Schiever[1] testified that she was a registered nurse and a certified sexual assault nurse examiner in June 2006. On June 25, 2006, Schiever was called into the hospital to meet with and examine B.W. At trial, the State asked Schiever, "In terms of examining [B.W.], did you ask her what happened for purposes of medical treatment?" Shiever responded, "Yes." When the State asked what B.W. had told her, defense counsel objected on the grounds of hearsay. After brief arguments, the trial court ruled the statements were admissible under section 115-13 of the Code (725 ILCS 5/115-13 (West 2012)). Schiever testified that B.W. stated:

[1] While the parties referred to the nurse as Nicole Cahill at trial, and defendant continues to do so in his brief, the nurse identified herself in court as Nicole Shiever.

> "I was downstairs practicing cheerleading. He was on the computer watching me. I thought that was weird I went upstairs and changed into this. *** I went into my mom's room to watch *Life with Derrick.* He came in and started talking. I didn't listen, I was watching TV. He talked about the birds or something, there was an intermission, I was on my mom's bed, he held me, I couldn't move. He put his stuff in my stuff."

When Schiever asked B.W. to point to her "stuff", she pointed to her vaginal area. B.W. then stated, "I got up and here was wet," while pointing to her inner thighs. She indicated that defendant "maybe" kissed her on her cheeks, and that she ran away after defendant went to the bathroom to clean up. She further told Schiever that:

> "There was wet on my mom's bed. He cleaned my mom's bed, too. I ran down to my friend's house to use the phone. I wanted to call my mom. My brother came after me, then [defendant] came. My friends told me him [*sic*] to leave me alone. My brother told me to go back to the house and lock the door. [Defendant] was running after me. I locked myself in the bathroom. My brother told me to go out the back door. I went back to my friend's house. My brother came. I told them to stop. They were chasing him, [defendant]. The police arrived."

After her initial conversation with B.W., Schiever obtained consent to collect evidence. The nurse collected swabs from B.W.'s facial cheeks, mouth, inner thighs, and the posterior fourchette area of her outer vaginal area. She also collected head hair combings, pubic hair combings, finger nail trimmings, and B.W.'s clothing. She sealed all of the items inside a criminal sexual assault kit. As part of her "general exam," Schiever also looked at B.W.'s front

and back for bruises or other injuries. She then conducted a genital examination of B.W. and found redness, a "white, milky discharge" in the posterior fourchette, and a 0.5 centimeter tear in the same area. The tear was not bleeding, but appeared new or "fresh." She photographed the tear and the State entered the photograph into evidence. Schiever testified that the redness, discharge, and tear all seemed "connected" to sexual contact. After she had finished, a doctor came in and took an internal swab of B.W.'s vagina. A blood standard was also taken. Both items were placed in the evidence kit which Schiever subsequently turned over to a police officer. During cross-examination, Schiever testified that she followed an evidence collection protocol while interacting with B.W. She looked to the triage note to determine B.W.'s prior medical history, which indicated that B.W. had none.

¶ 11 Hazel Crest police officer Derry Pierce testified that he collected the sealed and secured criminal sexual assault kit from the hospital and placed it in the police inventory.

¶ 12 Hazel Crest police officer Anthony Gray testified that he was assigned to B.W.'s case. On two occasions, a man identifying himself as defendant called into the Hazel Crest police station and indicated he would come to the station, but never came. Gray identified the phone caller as defendant, based on hearing defendant's voice in subsequent conversations. He eventually met with defendant at the police station and took a consensual buccal swab of defendant's cheek. He sealed the swab and sent it to the Illinois police crime lab.

¶ 13 Kelly Karjnik testified as an expert in DNA and biological analysis. She received B.W.'s sexual assault kit containing the multiple swabs and combings taken from B.W., as well as her blood standard, and underwear. She also received defendant's buccal swab. Karjnik identified

trace amounts of sperm on the swabs from both of B.W.'s thighs, as well as on her underwear. After performing tests, she identified a male DNA profile on the swab from B.W.'s left thigh and on her underwear, and found that the profile matched the DNA from defendant's buccal swab. She also found female DNA on both the swab and underwear which matched B.W.'s blood standard.

¶ 14 The State also introduced a certified copy of defendant's birth certificate which indicated he was born on September 21, 1972.

¶ 15 After the State's case in chief, defendant testified that he was the cousin of B.W.'s mother, Lechelle W. On June 25, 2006, Lechelle dropped him off at her house and asked him to stay until she returned. He used the computer while B.W., Bryant, and a friend were in the garage. Eventually, defendant went upstairs to the bathroom attached to Lechelle's bedroom. Defendant masturbated. He did not take off his clothes and did not ejaculate. As defendant finished, he heard the bedroom door close. He got up and saw B.W. in the bedroom's doorway. After washing his hands and face, defendant lay down on the bed and turned the television on. B.W. lay down beside him and changed the channel to something that "wasn't for a 12 year old." He told her to change the channel back, and B.W. responded that she would if he told her about "the birds and the bees." When he refused to talk to her about the subject, B.W. "act[ed]" like she was getting out of the bed. She climbed over defendant and dropped down onto him. He pushed her off and she hit the floor. She told him that he had hurt her and he threatened to call her mother. B.W. left and defendant unsuccessfully tried to call Lechelle multiple times. After some time, he went downstairs and saw Bryant and a friend. Bryant asked what he had done to B.W. They went

outside and found B.W. speaking with an old woman. B.W. was not crying or clutching any part of her body. Bryant brought B.W. back inside the house and told defendant to stay outside. Ignoring Bryant, defendant entered the house and found B.W. in the bathroom with a "smirk" on her face. Bryant and B.W. went outside again and defendant followed. A "big guy" was now standing with the woman and tried to fight defendant. Frightened, defendant ran away. He called Detective Gray multiple times and offered to meet, but he decided he should not do so without a lawyer present.

¶ 16 Following arguments by the parties, the trial court explained that it found B.W.'s testimony to be "extraordinarily believable." It noted that everything she testified to was corroborated by other witnesses. After discussing the corroboration provided by Bryant's testimony, the court stated:

> "After that she is taken to South Suburban where she – a nurse is responsible for the collection of evidence. What she tells is this – the nurse is what a 12 year old would say: 'He put his stuff in my stuff.'
>
> One of the most remarkable points in the trial is when the nurse pulled out that little yellow T-shirt, because it demonstrated to me the size of [B.W.] back in 2006, and I could hear her saying, 'He put his stuff in my stuff.' "

Subsequently, the court indicated that it found defendant's testimony to be "very not credible," and "[n]othing more than lies." It found defendant guilty of predatory criminal sexual assault. Defendant appeals.

¶ 17 Defendant first contends that the trial court erred in allowing nurse Schiever to testify to B.W.'s statements at the hospital. He argues that Schiever elicited the statements for the purpose of evidence collection, not medical treatment, and therefore the statements were inadmissible hearsay not subject to the statutory medical treatment exception. He notes that Schiever was called to the hospital to collect a criminal sexual assault kit and used the kit's paperwork rather than a medical chart. He further asserts that Schiever provided no treatment in her interaction with B.W.

¶ 18 The State responds that B.W.'s statements to Schiever were correctly admitted under section 115-13's hearsay exception. It notes that Schiever was a registered nurse who generally examined B.W. while also collecting evidence. It further notes that Schiever remained with B.W. while she was examined by the doctor and that B.W. testified that she received medication from the hospital.

¶ 19 Typically, the rule against hearsay prohibits out-of-court statements offered for the truth of the matter asserted from being introduced into evidence. *People v. Spicer*, 379 Ill. App. 3d 441, 449 (2007). Section 115-13 of the Code (725 ILCS 5/115-13 (West 2012)) provides an exception to the general rule against hearsay in certain cases when the declarant is seeking medical treatment. The section states:

> "In a prosecution for violation of [predatory criminal sexual assault,] statements made by the victim to medical personnel for purposes of medical diagnosis or treatment including descriptions of the cause of symptom, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to

> diagnosis or treatment shall be admitted as an exception to the hearsay rule." 725 ILCS 5/115-13 (West 2012).

Such statements are not subject to the hearsay rule because a declarant's "desire for proper diagnosis or treatment outweighs any motive to testify falsely." *People v. Roy*, 201 Ill. App. 3d 166, 179 (1990); see also *People v. Oehrke*, 369 Ill. App. 3d 63, 69 (2006).

¶ 20 A trial court may exercise its discretion in determining whether a victim's statements fall within the medical treatment and diagnosis exception. *Spicer*, 379 Ill. App. 3d at 450. Therefore, we reverse the trial court's determination only if it has abused its discretion. *Id.* An abuse of discretion occurs only when the trial court's ruling is "arbitrary, fanciful, or unreasonable or when no reasonable person would take the same view." *People v. Vannote*, 2012 IL App (4th) 100798, ¶ 24.

¶ 21 This court has repeatedly noted that "the plain language of section 115-13 evinces a legislative intent to apply this provision broadly." *People v. Freeman*, 404 Ill. App. 3d 978, 987 (2010); see also *Roy*, 201 Ill. App. 3d at 178. The section permits declarations to "nurses, treating doctors, evaluating doctors, or any other medical profession that is reasonably pertinent to diagnosis or treatment where [they] provide[] details of the sexual act committed, including how, when, and where the act occurred." *Freeman*, 404 Ill. App. 3d at 987. When an abuser is a family member, his or her identity is also pertinent to diagnosis and treatment of the emotional injuries of abuse. See *People v. Falaster*, 173 Ill. 2d 220, 230 (1996).

¶ 22 A medical professional's motivation to collect evidence does not necessarily remove statements made to that professional from section 115-13's purview. See *id.* at 229-30. In

Falaster, a child claimed that she had been abused by her father for years. *Id.* at 222-23. After contacting the authorities, the child was referred to a registered nurse who took a history from the victim, prior to a physical examination. *Id.* at 223. The defendant argued that the nurse's testimony about the victim's history was not covered by section 115-13 because the victim underwent the examination in order to develop evidence for the subsequent prosecution. *Id.* at 229. The Illinois Supreme Court ruled that the child's comments were within the scope of section 115-13, noting that "the statute does not distinguish between examining physicians and treating physicians." *Id.* The court reasoned the diagnostic purpose of the nurse's examination was not incompatible with the simultaneous investigatory purpose. *Id.*

¶ 23 Schiever, a registered nurse, reviewed B.W.'s prior medical history in the triage note. She testified that "for the purposes of medical treatment," she asked B.W. what had happened. She then proceeded to generally examine B.W.'s body for injuries and later more closely examined her genitals. The nurse noted the irritation, discharge, and tear present. Schiever stayed in the room when the doctor arrived. According to B.W.'s testimony, she was examined by a nurse and a doctor at the hospital and received medication. Defendant's assertion that B.W. received no medical treatment is unpersuasive. The supreme court has made clear that there is no practical distinction between a physician's examination and treatment of a patient. *Falaster*, 173 Ill. 2d at 229. Schiever's discussion with B.W. immediately preceded her examination of the child's injuries. Following the examinations, B.W. received medication. The trial court's determination that those statements were reasonably pertinent to B.W.'s medical examination and treatment was not so arbitrary or fanciful that it constituted an abuse of discretion.

¶ 24 We acknowledge that Schiever also clearly intended to collect evidence of a crime while examining B.W. However, *Falaster* makes clear that a physician's intent to collect evidence does not taint a coexisting motivation to diagnose and treat a patient. See *id.* In interpreting *Falaster*, this court has noted that "[a]lmost all emergency room visits by sexual assault victims will have both evidence collection aspects and medical aspects." *Spicer*, 379 Ill. App. 3d at 451. If a medical practitioner's desire to also collect evidence rendered a victim's statement's inadmissible, it "would in effect obliterate the statute." *Id.*

¶ 25 Defendant's reliance on *People v. Oehrke*, 369 Ill. App. 3d 63 (2006), is inapposite. In *Oehrrke*, an elderly woman was taken to a hospital with a head wound and other injuries. *Id.* at 64. The doctor treated the woman's head wound, gave her medication, and left. *Id.* at 65-66. Subsequently, a nurse called the doctor back into the room and the woman identified her son as her attacker. *Id.* at 66. The trial court allowed the doctor to testify to the woman's statement under the common-law hearsay exception for statements made for medical treatment. *Id.* On appeal, this court found that the identification was inadmissible hearsay because the doctor's interaction with the woman was not for the purpose of medical treatment. *Id.* at 70. The court also noted that while statements of an attacker's identity had been admitted in child sexual abuse cases, it would not extend the rule to encompass elder abuse cases. *Id.* In the instant case, B.W.'s comments to Schiever came during her initial meeting with the girl. Unlike in *Oehrke*, Schiever did not finish her examination, leave, and then return to question B.W. Because the statements were part of the nurse's examination, we find *Oehrke* readily distinguishable.

¶ 26 Defendant next contends that the trial court abused its discretion in allowing defendant's motion to admit statements made by B.W. to Bryant and Taylor under section 115-10 of the Code (725 ILCS 5/115-10 (West 2012)). He argues that the State failed to show that the statements were reliable because Bryant and Taylor described different circumstances for B.W.'s statements and indicated that B.W. used different words to describe her experience. The State responds that the trial court correctly found B.W.'s statements to be reliable because B.W. did not have a motive to lie, she uttered the statements while excited, and the statements were spontaneous.

¶ 27 We review a trial court's admission of evidence pursuant to section 115-10 for an abuse of discretion. *People v. Sharp*, 391 Ill. App. 3d 947, 955 (2009).

¶ 28 Section 115-10 provides a statutory exception to the general hearsay prohibition in cases alleging that a sexual act has been committed against a minor under 13 years of age. 725 ILCS 5/115-10 (West 2012). The section allows:

> "(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and
>
> (2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim." 725 ILCS 5/115-10 (a) (West 2012).

Where the child testifies at trial, the statements are only admissible if "[t]he court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability." 725 ILCS 5/115-10 (b) (West 2012).

¶ 29 At a section 115-10 hearing, the State bears the burden of demonstrating that the statements in question are reliable. *People v. Zwart*, 151 Ill. 2d 37, 45 (1992). The reliability determination involves consideration of the totality of the circumstances surrounding the statement. *People v. Major-Flisk*, 398 Ill. App. 3d 491, 508 (2010). A trial court should consider many factors, including: "the child's spontaneity and consistent repetition, use of terminology unexpected of a child of similar age, lack of motive to fabricate, and the child's mental state." *Id.* at 508-09.

¶ 30 Where a trial court erroneously admits hearsay into evidence, the proper remedy is, generally, reversal. *People v. Anderson*, 225 Ill. App. 3d 636, 651 (1992). However, such a situation amounts to harmless error and, thus, does not require reversal, when the admission of this evidence "is substantially corroborated by the testimony of the complainant or by other competent evidence and the complainant is present in court and available for cross-examination." *Id.*

¶ 31 We note initially that Taylor did not testify at trial, and thus, any potential error in the trial court's pretrial determination that her testimony was admissible is moot. See *In re Andrea F.*, 208 Ill. 2d 148, 156 (2003) (An issue "is considered moot where it presents no actual controversy or where the issues have ceased to exist.") However, as a trial court's determination

of reliability must be based on the totality of the circumstances, we consider Taylor's testimony at the section 115-10 hearing as it relates to B.W.'s statements to Bryant.

¶ 32 B.W. spoke with both Bryant and Taylor almost immediately after the abuse. *People v. West*, 158 Ill. 2d 155, 165 (1994) (finding short time between occurrence and statement supported reliability). Both Bryant and Taylor testified that B.W. was crying and visibly upset. Thus her mental state corroborates her assertion that she had been abused and does not suggest that she made the statement to imitate others or please authority figures. See *Sharp*, 391 Ill. App. 3d at 956 (considering victim's crying in determining statements were reliable). The record reveals no motivation for B.W. to fabricate a false allegation. See *Major-Flisk*, 398 Ill. App. 3d at 509 (finding statements reliable where record showed no motive to fabricate). Her use of the words "penis, "vagina," and "rape" are not unusually precocious for a 12-year-old, despite defendant's contention otherwise. Finally, B.W.'s statements to both Bryant and Taylor were consistent. She indicated that defendant had raped her. While she used different words to each witness, this is attributable to the different questions asked by each witness. See *People v. Sandefur*, 378 Ill. App. 3d 133, 145 (2007) (substantive consistency between child's separate statements to mother and interviewer weighed in favor of reliability, despite minor differences in words used). Taylor asked B.W. an open-ended question and received a detailed and lengthy account of what had happened. Bryant, by contrast, asked B.W. directly if defendant had raped her and received an equally direct "yes." We acknowledge that B.W.'s affirmative response to Bryant's suggestive question, "Did [defendant] rape you?" does not show spontaneity, which might weigh in favor of a finding of unreliability. Yet, when viewed against the totality of the

circumstances, the lack of spontaneity does not taint B.W.'s statement. See *Anderson*, 225 Ill. App. 3d at 650 (holding that statements made in response to questions are not necessarily inadmissible under section 115-10). Prior to Bryant's question, B.W. had already approached Taylor and volunteered her statement without direct prompting. The spontaneity of B.W.'s early statement to Taylor undercuts any fear that B.W.'s statement is merely the result of Bryant's prompting. Therefore, we find the trial court did not abuse its discretion in ruling Bryant's testimony admissible.

¶ 33 Defendant argues that B.W.'s statements were unreliable because Taylor and Bryant testified that she used different words when making her statements. It is clear from the record, however, that Taylor and Bryant were discussing separate statements. Taylor stated that Bryant was not immediately present during her discussion with B.W. and Bryant indicated that B.W. was already talking with Taylor when he arrived and asked his question. The witnesses described two separate statements, thus their testimony that B.W. used different words was not contradictory.

¶ 34 Defendant also argues that the statements were unreliable because Taylor's and Bryant's accounts differ regarding the details of who was present near the porch, when Bryant arrived, and what Bryant did when he arrived. None of these details directly impact the reliability of B.W.'s statements, but rather they concern the credibility of the witnesses themselves. The germane question in a section 115-10 hearing is the reliability of the child's statement. See *People v. Bowen*, 183 Ill. 2d 103, 120 (1998) (considering "the reliability of the child's hearsay statement") see also 725 ILCS 5/115-10(b)(1) (West 2012). When determining the credibility of

witnesses, the trial court is due great deference. See *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). None of the inconsistencies between Taylor's and Bryant's accounts are so significant as to render the trial court's acceptance of the witnesses' testimony unreasonable. See *id.*

¶ 35 We note briefly that, even if we were to find that B.W.'s statements to Bryant were inadmissible, reversal would not be warranted because any error would be harmless. At trial, Bryant testified that he asked B.W. if defendant raped her, and she replied, "Yes, and it hurt." This brief, undetailed statement provided only limited corroboration of B.W.'s own testimony. This solitary sentence pales before the overwhelming evidence of guilt at trial provided by B.W.'s own testimony which the court found "extraordinarily believable," the DNA evidence, and Bryant's non-hearsay corroboration of the events of that day. Thus, even if the statement was erroneously admitted, there is no reasonable probability that the verdict would have been different if the statement had been excluded and any error was harmless. See *Oehrke*, 369 Ill. App. 3d at 71.

¶ 36 For the foregoing reasons, we find the trial court did not abuse its discretion in allowing the sexual assault nurse examiner, Schiever, to testify to B.W.'s statements at the hospital under section 115-13 of the Code (725 ILCS 5/115-13 (West 2012)). We also find that the trial court did not abuse its discretion in determining that B.W.'s statements to her brother and neighbor were reliable and therefore admissible under section 115-10. Accordingly, the judgment of the circuit court of Cook County is affirmed.

¶ 37 Affirmed.