

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AARON JAMES STEVENS,

Defendant-Appellant.

UNPUBLISHED

September 17, 2020

No. 350875

Luce Circuit Court

LC No. 2018-001416-FH

Before: REDFORD, P.J., and BECKERING and M.J. KELLY, JJ.

PER CURIAM.

Defendant, Aaron James Stevens, appeals as of right his jury conviction of fourth-degree criminal sexual conduct (CSC-IV), MCL 750.520e(1)(c) (victim mentally incapable, mentally incapacitated, or physically helpless). The trial court sentenced defendant to a 12-month term of incarceration and a five-year period of probation, with defendant serving eight months immediately in the county jail, the remainder to be held in abeyance pending successful completion of the probationary period. We affirm.

I. FACTUAL HISTORY

This appeal arises out of events that occurred overnight between November 10 and 11, 2017. On November 10, the victim and her roommate began drinking after getting off work in the afternoon, each consuming approximately 10 beers. Defendant arrived at about 10:00 p.m. to drink with the victim’s roommate; the victim testified that she and defendant were “[b]arely acquaintances.” Defendant brought with him two bottles of liquor, from which the victim’s roommate testified defendant had already been drinking.

When defendant arrived, the victim was in the bathroom taking a shower after having vomited because of the amount of alcohol she had consumed. According to the victim, defendant was sitting at the dining room table when she got out of the shower. The victim wrapped a towel around herself and walked out to the dining room to put on a dress taken from the clean basket of clothes in that room. The victim sat on the coffee table and put on the dress, keeping the towel on until the dress completely covered her. She said “hi” to the defendant and took “a sip out of each

bottle” the defendant brought. After that point, the victim was unable to remember anything else that happened that night.

The victim’s roommate testified that the victim does not regularly drink and that she became “inebriated” and “lethargic” and was slurring her words. Over the next hour and a half to two hours, defendant, the victim, and the victim’s roommate each had three to five more drinks. The victim became sick again and vomited in the bathroom. After emerging from the bathroom, she passed out on the floor in what appeared to be an uncomfortable position that the victim’s roommate described as how “a contortionist” would lie. Defendant filled a saucepan with water and dumped it onto the victim, finding the act “hilarious.” The victim’s roommate had to clean up the mess because the victim was unable to do so. The victim’s roommate and defendant then took the victim upstairs to her bedroom; the victim was unable to walk without assistance, unable to speak coherently, and, in the words of her roommate, was “dead to the world drunk.”

The victim’s roommate and defendant went downstairs to continue drinking for approximately an hour and a half. The victim’s roommate went to his first-floor bedroom at about 2:00 a.m., telling defendant that he could sleep on the couch. The victim testified that she woke up in bed the next morning feeling disoriented and wearing nothing, and with defendant lying next to her. She asked defendant multiple times why he was there, but she did not remember his responses, if any. Defendant left the room as she got dressed, and she did not see or have any other contact with him after that point.

According to the victim, as the day went on and “the fog lifted,” she realized “how much pain [she] was in, everywhere.” She noticed bruises and bite marks that were not there prior to drinking with defendant and her roommate, notably on the inside of her upper thighs, and she could not remember how she received them. The victim filed a sexual assault complaint with the Luce County Sheriff’s Department on Monday, November 13, 2017.¹ Deputy Michael Peters noted that the victim had bruising along the right side of her neck, on her shoulder, on both breasts, and on the inside of her left thigh. Peters later spoke to defendant about the incident. Defendant told the deputy that the victim had passed out drunk and acknowledged getting into the victim’s bed and engaging in “consensual groping, and making out.”

II. SUFFICIENCY OF THE EVIDENCE

Defendant argues that the evidence presented at trial was insufficient to support a conviction for fourth-degree criminal sexual conduct because it was not sufficient to allow a jury to find beyond a reasonable doubt that the victim was physically helpless at the time of sexual contact. We disagree.

“In challenges to the sufficiency of the evidence, this Court reviews the record evidence de novo in the light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *People v Roper*, 286 Mich App 77, 83; 777 NW2d 483 (2009). “The standard of review is

¹ The assault occurred Friday night, and Deputy Michael Peters testified that the Sheriff’s Department closed for the weekend on Friday at 4:00 p.m.

deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). It is the trier of fact’s role to determine the weight of the evidence and the credibility of witnesses. *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008). “Circumstantial evidence and reasonable inferences that arise from such evidence can constitute satisfactory proof of the elements of the crime.” *Id.*

The jury convicted defendant of fourth-degree criminal sexual conduct in violation of MCL 750.520e, which states in pertinent part:

(1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

* * *

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

Defendant having testified to sexual contact with the victim, the sole element at issue is whether the victim was physically helpless at the time of the sexual contact. “Physically helpless” means “that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.” MCL 750.520a(m).

Defendant contends that the only evidence supporting a conclusion that the victim was physically helpless at the time of the sexual contact was her testimony that she drank so much that she had no memory of the incident the following day, and that the victim’s next-day memory loss does nothing to provide that she was incapacitated the night before. However, defendant errs by ignoring evidence from which rational triers of fact might conclude beyond a reasonable doubt that the victim was physically helpless at the time of the sexual contact, including evidence of the victim’s inability to act or communicate on the night of the incident and defendant’s statement to Deputy Peters that the victim had passed out drunk.

At trial, testimony from the victim and her roommate established that the victim became extremely intoxicated on the night of the incident. The jury heard evidence that the victim, who did not regularly drink, drank between 13 and 15 beers, as well as some liquor, and was visibly “inebriated” and “lethargic,” was slurring her words, and vomited twice because of the amount of alcohol she had consumed. After vomiting the second time, the victim collapsed on the floor and was largely unresponsive to defendant’s pouring water over her. The victim could not walk up the stairs without assistance and was no longer speaking coherently. Around 90 minutes after defendant and the victim’s roommate put the victim into her bed, defendant went back upstairs, got into the victim’s bed, and had sexual contact with the victim. Processing this testimony in light of its own experiences and common sense, a jury could reasonably conclude that the victim was physically helpless when taken to bed, that her condition was not simply the result of falling asleep, that she remained in this state of physical helplessness for the next several hours, and that defendant knew this when he initiated sexual contact. While the victim’s memory loss may not prove that the victim was unconscious, asleep, or physically unable to communicate at the time of

sexual contact, a rational jury could have considered the victim's blackout as further evidence of her degree of inebriation.

In addition, “[a] jury may infer consciousness of guilt from evidence of lying or deception.” *People v Unger*, 278 Mich App 210, 227; 749 NW2d 272 (2008). The victim discovered several bruises and bites on her body after the incident that she did not remember having before the incident and that she reported and showed to the investigating officer. When questioned about this by the investigating officer, defendant mentioned responsibility only for the marks on the victim's neck. While Deputy Peters acknowledged that the bruising on the victim's breasts could have resulted from efforts to move her upstairs and put her into her bed, the marks on the victim's shoulder and thigh went unexplained. Credibility is a matter for the jury to determine, as is the weight of the evidence, including circumstantial evidence and reasonable inferences therefrom. See *Kanaan*, 278 Mich App at 619. “[D]raw[ing] all reasonable inferences and mak[ing] credibility choices in support of the jury verdict,” *Nowack*, 462 Mich at 400, we believe it possible that a reasonable jury could have inferred that defendant was being evasive or untruthful when he admitted responsibility for only some of the marks discovered by the victim and that the unexplained bruising resulted from defendant's manipulation of the victim's unresponsive body during sexual conduct.

Defendant further contends that the evidence aligns with a finding of consensual sexual contact. Specifically, defendant contends that the victim's walking out of the bathroom wrapped in a towel and putting on her dress in his presence constitutes evidence of flirtation between the victim and him and supports a finding that the sexual contact was consensual. “In the context of the CSC statutes, consent can be utilized as a defense to negate the elements of force or coercion.” *People v Waltonen*, 272 Mich App 678, 689; 728 NW2d 881 (2006). However, force or coercion was not at issue in this case. Further, defendant's argument essentially asks this court to reweigh the evidence presented at trial. To the extent that the victim's act of pulling on a dress while wrapped in a towel after her shower could be considered in the least flirtatious, it must be weighed against the evidence of the victim's physical helplessness shortly before the conduct in question. As previously indicated, it is the role of the jury to weigh the evidence. *Kanaan*, 278 Mich App at 619.

Our review of the record leads us to conclude that the prosecution produced legally sufficient evidence that, if believed, would lead a rational trier of fact to conclude beyond a reasonable doubt that defendant was guilty of CSC-IV.

Affirmed.

/s/ James Robert Redford

/s/ Jane M. Beckering

/s/ Michael J. Kelly