

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ALVIN RICHARDSON,

Defendant-Appellee.

UNPUBLISHED

January 24, 2013

No. 306666

Wayne Circuit Court

LC No. 11-005336-FC

Before: TALBOT, P.J., and JANSEN and METER, JJ.

MEMORANDUM.

Alvin Richardson is charged with one count of first-degree criminal sexual conduct¹ and one count of second-degree criminal sexual conduct.² The People of the State of Michigan appeal by leave granted the trial court's October 4, 2011, order denying the prosecutor's motion in limine "to preclude defense of mistaken identity of victim." We reverse and remand to the trial court for proceedings consistent with this opinion.

Richardson intends to raise a mistake of identity defense at trial. He additionally asserts that he would like to admit evidence of his intoxication, but claims that he is not arguing that the alleged wrongful conduct occurred because he was intoxicated. Although the issues were raised separately in the trial court, the record demonstrates that Richardson's mistake of identity defense is being asserted in the context of his intoxication as the record does not suggest that Richardson is claiming that the alleged wrongful conduct would have occurred had he been sober. Thus, we find that under the circumstances of this case, Richardson's mistake of identity defense is a disingenuous attempt to impermissibly raise intoxication as a defense to the charges against him. Because intoxication is not a defense to the general intent crimes that Richardson is charged with,³ the trial court erred when it denied the prosecution's motion in limine to preclude

¹ MCL 750.520b(1)(a).

² MCL 750.520c(1)(a).

³ MCL 768.37; *People v Langworthy*, 416 Mich 630, 645; 331 NW2d 171 (1982); *People v Brewer*, 101 Mich App 194, 195-196; 300 NW2d 491 (1980).

the defense of mistaken identity and when it permitted the admission of evidence regarding Richardson's intoxication.

Reversed and remanded. We do not retain jurisdiction.

/s/ Michael J. Talbot

/s/ Kathleen Jansen

/s/ Patrick M. Meter