

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
October 17, 2013

v

SAMUEL DAMOND CHANCELLOR,
Defendant-Appellant.

No. 310121
Wayne Circuit Court
LC No. 11-003386-FC

Before: BECKERING, P.J., and O'CONNELL and SHAPIRO, JJ.

PER CURIAM.

Defendant appeals by right from his jury trial convictions for two counts of second-degree criminal sexual conduct (CSC II), MCL 750.520c(1)(a) (victim under 13 years of age). Defendant was sentenced to 50 months to 15 years' imprisonment for each count of CSC II. Because the prosecution presented sufficient evidence to support defendant's convictions, we affirm.

Defendant argues that the prosecution failed to present sufficient evidence at trial to support defendant's convictions because the victim's testimony was not corroborated by physical evidence and the victim could not specify when the conduct took place.¹ MCL 750.520c provides:

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

(a) That other person is under 13 years of age.

¹ Whether a defendant's conviction was supported by sufficient evidence is reviewed de novo. *People v Kissner*, 292 Mich App 526, 533; 808 NW2d 522 (2011). We "view the evidence in a light most favorable to the prosecution to determine if a rational trier of fact could find beyond a reasonable doubt that the prosecution established the essential elements of the crime[.]" *id.* at 533-534, and are "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).

There is no dispute that the victim was under 13 years of age when the conduct occurred. In fact, the victim was only 11 at the time of trial. Thus, the prosecution need only have proven that defendant engaged in “sexual contact” with the victim. MCL 750.520a(q) provides: “‘Sexual contact’ includes the intentional touching of the victim’s or actor’s intimate parts . . . if that intentional touching can reasonable be construed as being for the purpose of sexual arousal or gratification, [or] done for a sexual purpose”

The victim testified to at least two instances of criminal sexual conduct. She testified that, on one occasion during the summer of 2010, defendant grabbed her hand and placed it on his exposed “private parts” and “started putting it up and down.” She testified to another instance that same summer when defendant put “half” of his exposed penis on “the side” and “in the middle” of her buttocks, near her other “private part.” She stated that it hurt when defendant put his penis against her vagina and moved his body “up and down.” After defendant concluded this contact, the victim noticed white “stuff” dripping from defendant’s penis. The victim’s descriptions of these incidents are sufficient to establish two instances of “sexual contact” under MCL 750.520a(q).

The victim’s testimony alone is sufficient to prove defendant’s guilt beyond a reasonable doubt. MCL 750.520h provides that a CSC II victim’s testimony “need not be corroborated.” Moreover, although the victim could not specify the exact dates when the assaults occurred, “[t]ime is not of the essence, nor is it a material element, in criminal sexual conduct cases involving a child victim.” *People v Dobek*, 274 Mich App 58, 83; 732 NW2d 546 (2007). Accordingly, the prosecution presented sufficient evidence to establish the necessary elements of CSC II beyond a reasonable doubt.

Affirmed.

/s/ Jane M. Beckering
/s/ Peter D. O’Connell
/s/ Douglas B. Shapiro