OCT 19 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,
Appellee,
v.
JAMES PAUL DAVID,
Appellant.

Filed October 19, 1978

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Appeal from Black Hawk District Court - Peter Van Metre and Carroll E. Engelkes, Judges.

Defendant appeals conviction for statutory rape. Affirmed.

Wallace D. Parrish, Waterloo, for appellant.

Richard C. Turner, Attorney General, Raymond W. Sullins, Assistant Attorney General, and David Correll, Black Hawk County Attorney, for appellee.

Submitted to Donielson, Acting C.J., Snell, Oxberger and Carter, JJ.

PER CURIAM

Defendant appeals his conviction for statutory rape in violation of § 698.1, The Code, 1975. Defendant was 22 at the time of the incident and the prosecutrix was 15. The single issue on defendant's appeal involves his contention that the statute under which he was convicted offends against the equal protection clause of the 14th amendement to the federal constitution in that males can be convicted of rape for having sexual relations with females under a stated age while there is no penalty for females having sexual relations with males under the same age.

In State v. Drake, 219 N.W.2d 492 (Iowa 1974) the court recognized that there are physiological and psychological differences between males and females (here young males and females) which are sufficient to sustain the classification which the statute contains. The reasoning and language of the Drake decision when applied to the instant case require that the issue be resolved adversely to defendant. Such a result accords with that reached by a number of courts with respect to the same or similar issues. See, e.g., Hall v. McKenzie, 537 F.2d 1232, 1235 (CA4 1976); People v. Salinas, 551 P.2d 703, 705-06 (Colo. 1976); State v. Elmore, 24 Or. App. 651, 546 P.2d 1117, 1118-19 (1976); State v. Craig, 169 Mont. 150, 545 P.2d 649, 652-53 (1976); People v. Reilly, 85 Misc. 2d 702, 381 N.Y.S.2d 732, 738-39 (1976); People v. Mackey, 46 Cal. App. 3d 775, 120 Cal. Rptr. 157 (1975); Finley v. State, 527 S.W.2d 553, 556 (Tex. 1975).

The trial court did not err in rejecting defendant's constitutional challenge to the statute.

AFFIRMED.