IN THE COURT OF APPEALS OF IOWA

No. 3-180 / 92-952

FILED
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CLERK SUPREME COURT

000367

STATE OF IOWA,

Appellee,

vs.

PAUL EUGENE FIELDER,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Phillip S. Dandos, Judge.

Defendant appeals his conviction for sexual abuse in the third degree. He contends there was not substantial evidence to support the jury's verdict. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Patricia Reynolds Lapointe, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General; Karen Doland, Assistant Attorney General; Thomas S. Mullin, County Attorney; and Carol J. Chase, Assistant County Attorney, for appellee.

Considered by Oxberger, C.J., and Donielson and Habhab, JJ.

HABHAB, J. 000368

Defendant, Paul Eugene Fielder, appeals from his conviction of sexual abuse in the third degree. Fielder contends there was not substantial evidence to support the jury's verdict.

On May 30, 1991, the State charged Fielder with violating Iowa Code section 709.4(2)(c)(4) (1991), sexual abuse in the third degree. On the night in question, the victim, C.M., was fourteen and Fielder was twenty-six. At trial, C.M. testified that late in the evening of May 19 and the early morning of May 20, 1991, she was with some acquaintances at the "loop" in Sioux City. Fielder told C.M. he would give her a ride to her grandmother's house. Fielder instead took her to Stone Park and forced sexual intercourse on her in the front seat of his car.

Fielder admitted that he was alone with C.M. in the car on the night in question, but denied having sexual intercourse with her. He stated that C.M. had called him and asked him to come to the "loop" to see her. When he got there she was holding hands with Steve Graves in his car. Fielder testified that C.M. asked him for a ride to her grandmother's house but that she directed him to Bacon Creek. Fielder testified C.M. wanted to have sexual relations with him but he refused. He then drove her back to the loop and after fifteen minutes, she directed him to the corner of 36th & Nebraska where he dropped her off.

On May 1, 1992, the jury convicted Fielder, and he was sentenced to a term not to exceed ten years.

He appeals. We affirm.

Our standard of review is well settled. A verdict will be upheld where there is substantial evidence to support the charge. State v. LeGear, 346 N.W.2d 21, 23 (Iowa 1984). Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. Id. The evidence is viewed in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the record. State v. Bass, 349 N.W.2d 498, 500 (Iowa 1984). We consider all the evidence at trial, not just the evidence that supports the verdict. State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980).

In order to convict the defendant under Iowa Code section 709.4(2)(c)(4) (1991), the State had to show: 1) the defendant performed a sex act with a participant who was not his wife; 2) the participant was fourteen or fifteen years old; and 3) the defendant was six or more years older than the participant. We find there is substantial evidence to support the jury's verdict.

C.M. testified Fielder forced her to have sexual intercourse with him. She also testified she did not have sexual intercourse with anyone other than Fielder that night. C.M.'s grandmother testified that C.M. appeared to

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be close to hysterical and could not talk for almost twenty minutes when she came home. C.M. told her that she had been raped. The State introduced evidence of C.M.'s torn clothing and laboratory evidence which indicated that C.M. had had sexual intercourse within twenty-four hours of the exam.

Dr. David Wolff, an emergency room physician, testified that when he examined C.M. there were lacerations and bruises on her legs and arms which could have been caused by the objects inside Fielder's car. Furthermore, a medical technologist who analyzed the sexual assault evidence found seminal fluid on C.M.'s underwear as well as two pubic hairs collected from C.M. which were similar to the known pubic hairs of Fielder. Finally, a tampon with C.M.'s blood on it was found in Fielder's car.

Viewing all the evidence in the record, we find substantial evidence to convince a rational fact finder that the defendant is guilty beyond a reasonable doubt of sexual abuse in the third degree. We therefore affirm the conviction.

AFFIRMED.