IN THE COURT OF APPEALS OF IOWA

FILED
DEC 17 1987
CLERK SUPREME COURT

STATE OF IOWA)
Plaintiff-Appellee,)
vs.)
RICHARD TERRY LATHAM,)
Defendant-Appellant.)

Filed December 17, 1987
7-474
86-1623

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Appeal from the Iowa District Court for Cerro Gordo County (No. 18222) - J. W. Frye, Judge.

The defendant appeals from his convictions, following a jury trial, for second-degree sexual abuse, second-degree robbery, and assault with injury. **AFFIRMED.**

Charles L. Harrington, Appellate Defender, and John P. Messina, Assistant Appellate Defender, for the defendant-appellant.

Thomas J. Miller, Attorney General; Bruce Kempkes, Assistant Attorney General; and Paul L. Martin, County Attorney, for the plaintiff-appellee.

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

PER CURIAM

Following a jury trial, defendant, Richard Terry Latham, was found guilty of three crimes: second-degree sexual abuse, second-degree robbery, and assault causing bodily injury. See Iowa Code §§709.1(1), .3(3), 711.1, .3, 708.1(1), .2(2) (1985). On appeal, defendant asserts (1) the trial court abused its discretion in overruling defendant's pretrial motion for change of venue, and (2) the trial court erred in excluding evidence of the victim's recent miscarriage.

While awaiting trial, defendant was charged with aiding and abetting the murder of a fellow pretrial detainee in the county jail. Defendant alleges state and local media coverage of the murder was so prejudicial he could not receive a fair trial in Cerro Gordo County. Defendant makes no claim of actual prejudice and voir dire was not reported.

On our de novo review, we find the news coverage is factual in tone and is not inflammatory as it pertains to defendant's alleged involvement in the murder. See State v. Wilson, 406 N.W.2d 442, 445 (Iowa 1987). Defendant failed to show the reports are so pervasive and inflammatory that prejudice must be presumed. Id. We conclude the trial court did not abuse its discretion in overruling defendant's motion for change of venue.

Defendant's defense was the victim consented to the sexual act. He claims the trial court erred in excluding evidence the victim had miscarried a baby a few months before the sexual assault occurred. Defendant offered proof the victim concealed the miscarriage from her boyfriend and the prospective adoptive parents, who were going to pay some of the victim's living expenses during her pregnancy. Defendant wished to cross-examine the victim regarding her miscarriage to establish a possible motive for the victim to falsely claim rape and to impeach her credibility by showing she planned to deceive and defraud

the adoptive parents. See Iowa R. Evid. 404, 608(b). The trial court excluded the evidence on the ground that whatever probative value the evidence had, it was substantially outweighed by the danger of unfair prejudice and confusion of issues. Iowa R. Evid. 403. We find the trial court did not abuse its wide discretion in applying Iowa Rule of Evidence 403. See State v. Scott, 405 N.W.2d 829, 833 (Iowa 1987); State v. Martin, 385 N.W.2d 549, 552 (Iowa 1986).

Finding no grounds for reversal, we affirm the judgment of the trial court.

AFFIRMED.