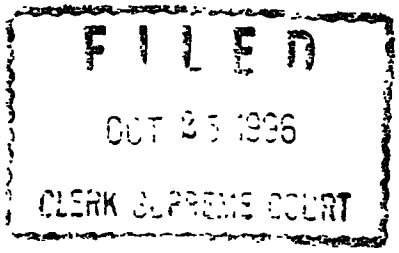
IN THE COURT OF APPEALS OF IOWA

No. 6-520 / 95-1397



STATE OF IOWA,
Appellee,

vs.

RICHARD C. MOCKMORE, Sr.,
Appellant.

Appeal from the Iowa District Court for Scott County, Edward B. deSilva, Judge.

Richard Mockmore, Sr., appeals the judgment and sentence entered upon his convictions of second-degree sexual abuse and third-degree sexual abuse in violation of Iowa Code sections 709.3(1) and 709.4(1) (1995). **AFFIRMED.**

Robert J. Phelps of Phelps & Phelps, Davenport, for appellant.

Thomas J. Miller, Attorney General, Ann E. Brenden, Assistant Attorney General, William E. Davis, County Attorney, and Kelly Raines, Assistant County Attorney, for appellee.

Heard by Sackett, C.J., and Habhab and Vogel, JJ.

VOGEL, J.

Richard Mockmore, Sr., appeals the judgment and sentence entered upon his convictions of second-degree sexual abuse and third-degree sexual abuse in violation of Iowa Code sections 709.3(1) and 709.4(1) (1995). The defendant argues: (1) there was insufficient evidence to convict him of either count, (each involving a separate victim); (2) his confession was not given voluntarily; and (3) the search of his car and apartment were illegal.

We review defendant's first argument for corrections of errors of law. Iowa R. App. P. 4. The verdict will be upheld if supported by substantial evidence. *State v. Terry*, 544 N.W.2d 449, 451 (Iowa 1996). Both victims similarly described and later identified Mockmore from photo lineups, as well as describing his car in which both crimes took place. Both victims testified Mockmore hurt and threatened them before each submitted to or was forced to have sexual intercourse with him. The manner in which Mockmore sexually abused both victims was strikingly similar. We find there was substantial evidence to support the verdict.

We review defendant's remaining arguments de novo as they involve constitutional issues. *State v. Niehaus*, 452 N.W.2d 184, 187 (Iowa 1990). Defendant failed to preserve error on the motion to suppress the confession by not receiving a ruling on the motion and proceeding to trial by stipulating to the use of the video tape containing the confession. Even if error were preserved, we find nothing

in the interview coercive regarding the detective's questioning which would undermine the voluntary nature of the confession.

Defendant's claim of an illegal search of his car and apartment were not preserved for review as a motion to suppress was not filed until more than six months after defendant was arraigned. While the district court ruled on the merits of this issue, we affirm on alternate grounds. *See State v. McCowen*, 297 N.W.2d 226, 227 (Iowa 1980).

AFFIRMED.