FILED
JUN 15 1989
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
EUGENE SMITH,)
Defendant-Appellant.)

286

9-152
88-407

Appeal from the Iowa District Court for Scott County (131144-01), David J. Sohr, Judge.

Defendant appeals his conviction, by a jury, of third-degree sexual abuse. **AFFIRMED.**

William W. Wegman, State Public Defender, and Linda Del Gallo, Assistant State Public Defender, for the defendant-appellant.

Thomas J. Miller, Attorney General; Sheryl A. Soich, Assistant Attorney General; and J.E. Tobey III, Assistant County Attorney, for the plaintiff-appellee.

Considered by Donielson, P.J., and Hayden and Sackett, JJ.

PER CURIAM 287

Defendant was charged with and found guilty by a jury of sexual abuse in the third degree in violation of Iowa Code sections 709.1, 709.4(1) (1987).

Before trial the trial court granted defendant's motion in limine and ruled the State could not offer testimony or evidence relating to a pocket knife defendant had on the evening in question. During cross-examination the victim made a spontaneous comment about the pocketknife. Defendant timely moved for a mistrial. The trial court admonished the jury to completely disregard the witness's response and give no consideration whatsoever. Defendant's motion for a mistrial was refused.

Our scope of review is for errors at law. Iowa R. App. P. 4.

> Generally, an improper statement is not unduly prejudicial when trial court admonishes the jury to disregard it. The court's prompt admonishment at this early stage of the proceedings was sufficient to avoid any prejudice arising from the prosecutor's reference. Trial court did not abuse its discretion in overruling the motion for mistrial. (citations omitted).

State v. Bishop, 387 N.W.2d 554, 561 (Iowa 1986).

In this case the trial court promptly admonished the jury to disregard the reference to the pocketknife. Consequently, we hold there was no prejudice to defendant. The trial court did not abuse its discretion in overruling defendant's motion for a mistrial.

Defendant next contends the evidence was insufficient to convince a rational trier of fact beyond a reasonable doubt he was guilty of third offense sexual abuse. This contention has no merit.

AFFIRMED.