IN THE COURT OF APPEALS OF IOWA

No. 8-528 / 97-1278
Filed November 30, 1998

STATE OF IOWA,

Appellee,

vs.

FREDRICK WILLIAM LEWIS,

Appellant.

FILED
NOV 30 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Dubuque County, Alan L. Pearson, Judge.

On appeal from his convictions for first-degree kidnapping, first-degree sexual abuse, and first-degree robbery, the defendant claims the trial court erred in admitting evidence of hearsay statements the victim made to a nurse and police officer. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Dennis D. Hendrickson, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Robert P. Ewald, Assistant Attorney General, Fred H. McCaw, County Attorney, and Ralph Potter and Lyle Galliart, Assistant County Attorneys for appellee.

Considered by Sackett, C.J., Huitink, Streit, Vogel, and Mahan, JJ.

VOGEL, J.

Defendant-appellant Fredrick William Lewis appeals his convictions for first-degree kidnaping, first-degree sexual abuse, and first-degree robbery. He contends the trial court erred in admitting hearsay statements the victim made to a nurse and police officer. We affirm.

Defendant-appellant was convicted of first-degree kidnaping, first-degree sexual abuse, and first degree robbery of Jane Lucille Bahl. During trial written medical history taken by medical personnel upon the victim's arrival at a local hospital was read into the record. This history contained information about the nature of the victim's injuries as well as information concerning her attacker. Testimony by a police officer regarding statements made to him by the victim's husband and by the nurses treating the victim were also admitted. The statements by the husband and nurses recounted the attack as it was described to them by the victim. All of this testimony was admitted over defendant's hearsay objections.

I. ***Scope of Review.*** We have on prior occasions reviewed the admission of hearsay evidence for abuse of discretion. *See, e.g*, *State v. Veal,* 564 N.W.2d 797, 807–08 (Iowa 1997); *State v. Weaver*, 554 N.W.2d 240, 247 (Iowa 1996). Recently, however, the Iowa Supreme Court stated such rulings should be reviewed for correction of errors of law. *See State v. Ross*, 573 N.W.2d 906, 910 (Iowa 1998). We adhere to this ruling.

II. ***Prejudice to defendant.*** If hearsay is admitted, prejudice to the nonoffering party is presumed. *State v. Rice*, 543 N.W.2d 884, 887 (Iowa 1996). However, if the nonoffering party proves the challenged evidence did not impact the jury's guilty verdict, then admission of hearsay alone is not a valid ground for reversal. *State v. Barrett*, 445 N.W.2d 749, 754 (Iowa 1989). Prejudice will not be found where substantially similar evidence has been admitted but not objected. *State v. McKettrick*, 480 N.W.2d 52, 60 (Iowa 1992).

On our review of the record, we find there was no prejudice to the defendant. Substantially similar evidence offered by the victim herself had been admitted without objection prior to the medical history testimony. Similar evidence was also offered by the victim without objection prior to the admission of the statements made by the husband and nurse to the police officer. The court did not err in failing to exclude the medical history testimony as it was cumulative of other testimony properly admitted into the record. There was ample evidence to support the verdict without the objected to testimony. The State has met its burden in establishing no prejudice to the defendant. We affirm the ruling of the trial court.

AFFIRMED.