

IN THE COURT OF APPEALS OF IOWA

No. 6-637 / 95-2209

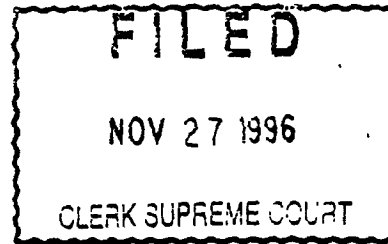
STATE OF IOWA,

Plaintiff-Appellee,

vs.

FRED D. WOOTEN,

Defendant-Appellant.



Appeal from the Iowa District Court for Scott County, Edward B. de Silva, Jr.,
Judge.

Defendant appeals the sufficiency of the evidence to support his conviction for
sexual abuse in the third degree. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney
General, William E. Davis, Scott County Attorney, and Julie Walton, Assistant
County Attorney, for appellee.

Considered by Sackett, C.J., and Cady and Streit, JJ.

PER CURIAM

This is an appeal by a defendant claiming there was insufficient evidence to support the jury's verdict finding him guilty of third-degree sexual abuse, in violation of Iowa Code section 709.4. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On April 29, 1995, Katie, who was then thirteen years old, went to a store near her house to buy gum. Defendant Fred Wooten offered her a ride home. Katie accepted because she felt she knew Wooten due to the fact her friend was Wooten's babysitter. During the ride, Katie admitted there was no one at her house. Wooten went with Katie into the house and forced her to engage in oral and vaginal sex.

Michael Gonzales, an auxiliary officer for the Scott County Sheriff's Department, was notified by a neighbor that Katie had been seen going into her house with a strange man. Gonzales retrieved Katie and took her across the street, where he telephoned the police. In the meantime, Wooten left Katie's house. When officers went to Wooten's house to question him, he ran from the area. He was later apprehended and charged with sexual abuse in the third degree.

At the criminal trial, Wooten testified he had only been in the house for about five minutes, and no sexual contact occurred. Wooten's girlfriend, Michelle McKenny, testified Wooten admitted to her he had engaged in oral sex with Katie. A jury found Wooten guilty of the crime charged. He now appeals.

Wooten contends the district court erred in failing to grant his motion for a judgment of acquittal because there was insufficient evidence to support his conviction. He points out the blood, hair, and body fluid analysis were unable to connect him to the sexual abuse. He claims that because there was no physical evidence to support Katie's allegations, the motion for judgment of acquittal should have been granted.

A jury's verdict is binding on us if it is supported by substantial evidence. *State v. Lewis*, 514 N.W.2d 63, 65-66 (Iowa 1994). In determining whether there was substantial evidence, we review the record in the light most favorable to the State. *Id.* at 66. Substantial evidence means such evidence as could convince a rational trier of fact that the defendant is guilty beyond a reasonable doubt. *Id.*

We find there was substantial evidence in this case to support defendant's conviction for third-degree sexual abuse. Katie's testimony clearly identifies Wooten and the acts he committed. McKenny's testimony supports Katie's claim of sexual abuse.

We affirm Wooten's conviction for sexual abuse in the third degree. Costs of this appeal are assessed to Wooten.

AFFIRMED.