IN THE COURT OF APPEALS OF IOWA

No. 0-313 / 99-767
Filed June 28, 2000

FILED
JUN 28 2000
CLERK SUPREME COURT

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JAMES GEORGE COLLINS,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Paul R. Huscher, Judge.

Defendant appeals from the judgment and sentence entered upon the district court finding him guilty of second-degree sexual abuse. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Cristen C. Odell, Assistant Attorney General, John P. Sarcone, County Attorney, and Steve Foritano, Assistant County Attorney, for appellee.

Considered by Streit, P.J., and Zimmer and Hecht, JJ.

STREIT, P.J.

The defendant, James Collins, claims his conviction for sexually abusing a family member was not supported by sufficient evidence. Based on the statements of the victim, a proper assessment of her credibility, and the corroborating facts and statements surrounding the alleged crime, we find ample evidence to support a conviction and affirm.

I. Background Facts & Proceedings.

The defendant, James Collins, was accused of sexually abusing his seven-year-old great niece. Collins was watching the child while her mother went to the store. Collins allegedly penetrated the child's vagina digitally and orally on three separate occasions. He then told the child not to tell or they would both get in trouble. The child, however, told her mother what happened, and the police were called. Upon being interviewed by the police, Collins stated he had been drinking the night of the alleged abuse and he often had sexual problems when he had been drinking. When confronted with the possibility of physical evidence at the scene, his attitude changed and he became much more reserved. He was charged with sexual abuse in the second degree in violation of Iowa Code sections 709.1(3) and .3(2) (1999).

The case was tried to the bench, and despite some inconsistencies with the child's detail recollection and the absence of physical evidence, the court found Collins guilty and sentenced him accordingly.

Collins appeals, claiming there was insufficient evidence to sustain a conviction.

II. Standard of Review.

We review claims of insufficient evidence for errors at law. Iowa R. App. P. 4. A jury's guilty verdict is binding upon us unless we conclude the record lacks substantial evidence to support such a finding. *State v. Bush*, 518 N.W.2d 778, 779 (Iowa 1994). Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. *State v. Taft*, 506 N.W.2d 757, 762 (Iowa 1993). Substantial evidence does not, however, denote some elevated quantity of proof. *State v. Anderson*, 517 N.W.2d 208, 211 (Iowa 1994). Rather, the relevant question in our review of the case "is whether, after viewing all the evidence in the light most favorable to the prosecution, any rational trier of facts could have found the essential elements of the crime beyond a reasonable doubt." *Id.*

III. The Merits.

In claiming there was insufficient evidence to support the conviction, Collins relies on the lack of physical evidence at the scene and the inconsistent statements of the child victim. In viewing the evidence most favorable to the State, we find a rational trier of fact, in this case the court, could find Collins guilty beyond a reasonable doubt.

Although there was no physical evidence corroborating the child's claims of abuse, she was extremely specific with regard to the actual sex acts perpetrated on her and recounted Collins's warning not to tell anyone. Collins also made the somewhat hazy statement that he has sexual problems when he drinks. In finding Collins guilty, the court contemplated the inconsistencies of the

child's testimony and appropriately weighed those inconsistencies against her credibility. The court, however, found the victim's inconsistent statements concerned extraneous facts outside the scope of the sex act and her detailed account of the actual crime persuasive. We too have examined the record before us and find the credibility conclusions of the court to be rational and well thought out. The court found the victim credible, and the statements and conduct of Collins corroborate her statements. The conviction, therefore, is affirmed.

AFFIRMED.