FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed February 26, 1986
vs.	)	5-632 85-83
JAMES HENRY JUSTUS,	)	
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Muscatine County (No. 1515-784) - C. H. Pelton, Judge.

Defendant appeals from his conviction for sentence of sexual abuse in the second degree in violation of section 709.3. **AFFIRMED.**

Charles L. Harrington, Chief Appellate Defender, and Michael J. Laughlin, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and Ann Di Donato, Assistant Attorney General, and Stephen Petersen, County Attorney, for plaintiff-appellee.

Heard by Schlegel, P.J., and Hayden, and Sackett, JJ.

Defendant claims: (1) there was insufficient evidence to find him guilty beyond a reasonable doubt of sexual abuse in the second degree; and (2) the trial court erred in overruling defendant's objection to testimony of events that occurred after the alleged rape.

The evidence at trial included a statement by the defendant that he started to have forced intercourse with the victim when she started to scream and wanted him to stop. He stated he did not want to stop so he grabbed her by the throat, hit her in the face with his fist, and got carried away with hitting her too much. Then he saw she was just laying with her eyes closed and was not able to breath very well. He left her. He was not certain if she was going to live or die because he choked her very hard with both hands.

The victim testified to the sexual intercourse but said defendant did not choke or hit her until some ten minutes after the sex act and that prior to the sex act defendant did not injure her.

Medical evidence was introduced to show the victim was seriously injured.

I.

Defendant concedes there was sexual abuse but argues the evidence warrants only a conviction of sexual abuse in the third degree because there is not a sufficient showing of a threat or use of force during the crime.

Iowa Code section 709.3 provides:

> A person commits sexual abuse in the second degree when the person commits sexual abuse under any of the following circumstances:
>
> 1. During the commission of sexual abuse the person displays in a threatening manner a dangerous weapon, or uses or threatens to use force creating a substantial risk of death or serious injury to any person.
>
> 2. The other participant is under the age of twelve.
>
> 3. The person is aided or abetted by one or more persons and the sex act is committed by force or against the will of the other participant.
>
> Sexual abuse in the second degree is a class "B" felony.

The defendant's confession clearly presents evidence sufficient to meet the element of force. However, defendant claims there is no corroboration of this portion of his confession.

Iowa Rule of Criminal Procedure 20(4) provides:

> Confession of defendant. The confession of the defendant, unless made in open court, will not warrant a conviction, unless accompanied with other proof the defendant committed the offense.

The rule requires corroboration which connects the defendant with the crime. State v. White, 319 N.W.2d 213, 214 (Iowa 1982). Corroboration need not be strong nor need it go to the whole case so long as it confirms some material fact connecting the defendant with the crime. Id.

Defendant's confession that he had a sex act with the victim against her will is adequately corroborated by evidence of ripped undergarments, medical testimony the victim suffered a vaginal injury, medical testimony of a strangulation injury resulting in the victim having severe breathing difficulties, and injuries requiring a week's hospitalization.

There is substantial evidence to support a finding beyond a reasonable doubt of sexual abuse in the second degree.

II.

Defendant contends evidence of the choking and beating should not have been admitted because it was irrelevant.

We discussed in Division I how the evidence corroborated defendant's confession. Defendant's own evidence showed the beating occurred during the sex act. The evidence was relevant to complete the story of the crime. See State v. Drake, 219 N.W.2d 492, 494 (Iowa 1974); State v. Fryer, 243 N.W.2d 1, 6 (Iowa 1976).

The defendant's conviction is affirmed.

AFFIRMED.