FILED
MAR 20 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE INTEREST OF )
NICHOLAS DEAN SHEARER, )
A Child, )
Appellant. )

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83-617

Appeal from the Iowa District Court for Story County - Glenn C. Sedgwick, Judge.

This child appeals the juvenile court's delinquency adjudication and disposition based upon the child's commission of two acts of second degree sexual abuse in violation of Iowa Code section 709.3(2). AFFIRMED.

Christine A. Hunziker of Payer, Steensland & Lathrop, Ames, for child-appellant.

Thomas J. Miller, Attorney General, and Brent D. Hege, Assistant Attorney General, for the State-appellee.

Heard by Donielson, P.J., and Snell and Schlegel, JJ.

This child appeals the juvenile court's delinquency adjudication and disposition based upon the child's commission of two acts of second degree sexual abuse in violation of Iowa Code section 709.3(2). On appeal the child asserts that: (1) there was insufficient evidence of the commission of sexual abuse to support his delinquency adjudication; and (2) the juvenile court erred by allowing the State to support the testimony of the alleged victim with the testimony of a social worker regarding the mental development of young children and their credibility in general and the credibility of the alleged victim in particular. We affirm.

On January 20, 1983, a delinquency petition was filed, accusing fourteen-year-old Nicholas Shearer of committing two acts of second degree sexual abuse against four-year-old Tara W. Following a hearing, an adjudication of delinquency was filed based upon the juvenile court's findings and conclusions that Nick had committed the two acts of sexual abuse. Following a dispositional hearing, Nick was placed on probation for a period of one year. This appeal followed.

I.

Nick claims that the juvenile court erred in allowing certain testimony by Jeannie Beardsley, a psychiatric social worker, who was called by the State to testify to the psychological and emotional development of young children, their credibility in general, and that of Tara in particular. On appeal, Nick asserts that the State should not be allowed to introduce such evidence since it bolstered and supported Tara's testimony which had not been impeached on cross-examination. At trial, however, this objection was not raised; instead, Beardsley's testimony was challenged only on grounds of irrelevancy and her lack of expertise. Neither of these claims are pursued here on appeal. We do not consider issues not raised at trial. State v. Mark, 286 N.W.2d 396, 408 (Iowa 1979).

II.

Nick also claims that there was insufficient evidence presented by which the

court could find beyond a reasonable doubt that he committed the delinquent acts alleged; i.e., the incidents of sexual abuse.

> The child shall be presumed to be innocent of the charges against him or her and no finding that a child has engaged in delinquent conduct may be made unless the state has proved beyond a reasonable doubt that the child engaged in such behavior.

Iowa Code § 232.47(10). Our review is de novo. In Interest of Wheeler, 229 N.W.2d 241, 243 (Iowa 1975).

We believe there is sufficient evidence to justify the juvenile court's decision. At the adjudicatory hearing, Tara testified in essence that sometime during the summer of 1982, Nick took her for a walk in the woods near the trailer court where both lived, told her to take off her clothes, and then touched her "butt" with his fingers and tongue. Tara further testified that the second incident of sexual abuse occurred at Nick's trailer home shortly before Christmas in 1982 when Nick's mother was babysitting with Tara, her brother and her sister. She testified in essence that while her siblings were watching T.V. with Nick's brother in another room, Nick took her to his bedroom where he pulled her pants down and touched her vagina with his fingers, his tongue and some Q-Tips. There were some minor inconsistencies in Tara's testimony. Tara did not tell her mother about the alleged sexual abuse until December 30, 1982. In addition to Tara's mother, other witnesses for the State included a police officer and Jeannie Beardsley, a psychiatric social worker.

Nick generally denied all allegations of sexual abuse. He specifically denied taking Tara to the woods or being alone with her in his bedroom. Nick's grandfather testified that he was with Nick in Nick's room on most of the evening in question. Regarding the incident in the woods, Nick stated that he never took Tara for a walk. He did say that he occasionally took his younger brother and his friend to the playground in the trailer court and that Tara possibly could have tagged along. Other witnesses testifying for Nick included his mother and Dr.

Nadolny, a psychologist who had evaluated Nick.

The juvenile court determined, after viewing and hearing all of the witnesses, that Tara's testimony was more credible than was Nick's and on that basis concluded that Tara was in fact sexually abused by Nick. That court was in a far superior position to determine questions of credibility than is this court. Although we are not bound by the juvenile court's findings on witness credibility, we give them special weight. In Interest of Dameron, 306 N.W.2d 743, 745 (Iowa 1981). In a case like this where witness credibility is the ultimate question, we find no reason to reject the court's findings in this case that Tara's testimony was credible and that Nick committed the delinquent acts with which he was charged. We therefore affirm that court's judgment.

AFFIRMED.