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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A06-1807**

State of Minnesota,  
Respondent,

vs.

Earnest Lee Anderson,  
Appellant.

**Filed January 22, 2008  
Affirmed  
Toussaint, Chief Judge**

Chippewa County District Court  
File No. CR-05-126

Lori Swanson, Attorney General, James B. Early, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Dwayne N. Knutsen, Chippewa County Attorney, 102 Parkway Drive, Post Office Box 514, Montevideo, MN 56265 (for respondent)

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Considered and decided by Toussaint, Chief Judge; Crippen, Judge;\* and Muehlberg, Judge.\*\*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

\*\* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**TOUSSAINT**, Chief Judge

Appellant Earnest Lee Anderson challenges his conviction of second-degree criminal sexual conduct, arguing that the circumstantial evidence was insufficient to prove that he had sexually assaulted seven-year-old A.B. Because the jury could reasonably have concluded from the evidence that appellant did sexually assault A.B., we affirm.

### DECISION

In considering a claim of insufficient evidence, this court's review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). A jury is in the best position to evaluate circumstantial evidence, and its verdict is entitled to due deference. *Id.* Circumstantial evidence must form a complete chain that, in light of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude, beyond a reasonable doubt, any reasonable inference other than guilt. *State v. Jones*, 516 N.W.2d 545, 549 (Minn. 1994). Circumstantial evidence warrants stricter scrutiny but is entitled to the same weight as direct evidence. *State v. Bauer*, 598 N.W.2d 352, 370 (Minn. 1999).

Appellant argues that the evidence is insufficient to prove that he assaulted A.B. But the trial transcript indicates the jury heard evidence sufficient to support its finding of appellant's guilt.

First, A.B.'s mother testified that, although A.B. initially told a police officer that neither of two men whose pictures were presented to her was her assailant, she shortly afterwards told her mother that one of the men's pictures did look like her assailant. The man in the picture A.B. was referring to was appellant. Second, A.B. testified that her assailant was wearing a white shirt, a hat, jeans, and white tennis shoes. Another witness testified that appellant was wearing those clothes on the day of the assault. In addition, a store's security videotape showed appellant dressed in those clothes on that day, and A.B. testified that the clothes on the man in the videotape were similar to those her assailant was wearing.

Third, a witness testified that the assault occurred near the trailer home of Dennis Richardson. and another witness testified that she had dropped appellant off at that trailer home shortly before the assault. A.B. testified that her assailant had asked her where "Dennis" was. Fourth, a witness testified that appellant sometimes rode a bike kept at Richardson's home, and A.B. testified that her assailant had been on a bike. Fifth, a witness testified that, shortly after the assault, appellant came to her apartment, said he was going to be arrested, told the witness to lie and say he was not in the apartment if a police officer asked, and made plans to leave town with the witness. Sixth, a police officer testified that appellant lied about what he was wearing and where he had been on the day of the assault.

From this evidence, there was no reasonable inference other than that appellant was A.B.'s assailant. The evidence was sufficient to allow the jurors to reach their verdict.

Appellant argues that three minor discrepancies in A.B.'s testimony undermine the jury's verdict, but this argument is unpersuasive. First, A.B. said her assailant did not have a beard or goatee and answered, "Um hum" when asked if the assailant was "[p]retty clean shaven." Appellant has a mustache. Second, A.B. said her assailant was wearing a blue hat; first she said that the hat did not have writing on it, then she said she did not remember about the writing. Appellant's hat was actually black with writing. Third, A.B. told the officer her assailant had two earrings in one ear and described the earrings. Appellant has one ear pierced in two places, but he was not wearing earrings in the police photo taken on the day of the assault, and two witnesses testified that they did not remember appellant having earrings like those described by A.B.

The jury heard these discrepancies together with other evidence sufficient to support its verdict. Viewed in the light most favorable to the conviction, the evidence allowed the jury to find appellant guilty.

**Affirmed.**