STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2264

State of Minnesota,
Respondent,

vs.

William Paul Thornblad,
Appellant.

Filed October 24, 2011
Affirmed
Stauber, Judge

McLeod County District Court
File No. 43CR10495

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael Junge, McLeod County Attorney, Glencoe, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Susan Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Stauber, Presiding Judge; Bjorkman, Judge; and Huspeni, Judge.*

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

U N P U B L I S H E D O P I N I O N

STAUBER, Judge

On appeal from his conviction of second-degree criminal sexual conduct, appellant argues that the evidence was insufficient to support his conviction because the state failed to prove beyond a reasonable doubt that he acted with sexual or aggressive intent when he laid on his daughter's backside and "squished" her. We affirm.

FACTS

Appellant William Paul Thornblad was charged with two counts of second-degree criminal sexual conduct and one count of fifth-degree criminal sexual conduct. The alleged criminal sexual conduct involved appellant's 13-year-old daughter S.A.T. Count I alleged that appellant gyrated his groin on S.A.T.'s buttocks; Count II alleged that appellant touched his daughter's breast; and Count III alleged that appellant masturbated in the presence of S.A.T. in his bedroom.

At trial, the state presented evidence and testimony concerning a "squishing incident" that occurred in March 2010. According to S.A.T., she was bothering appellant, who told her that if she did not stop, he would "squish" her. When S.A.T. ignored his warning, appellant put her face down on the bed, laid on top of her, and "bounc[ed] up and down on her." The incident lasted five-to-ten seconds and caused S.A.T.'s lounge pants and panties to come part way down, partially exposing her buttocks. S.A.T. also noticed that appellant's pants were unzipped. Although S.A.T. claimed that she did not feel anything hard pressed against her bottom, she testified that after the incident she asked appellant if he had raped her.

In addition to the "squishing incident," S.A.T. testified that appellant masturbated several times in her presence. According to S.A.T., appellant would masturbate on his bed while she played on the computer in appellant's bedroom. S.A.T. claimed that when appellant masturbated, he would generally lay face-down on the bed and would "[m]ove [his body] around." S.A.T. further testified that when appellant was done, she would observe stains on the bed.

Appellant did not testify at trial, but a statement he made to an investigating officer was admitted into evidence. In the statement, appellant admitted that he masturbated in S.A.T.'s presence approximately five or six times. According to appellant, he masturbates by laying on his tummy and "hump[ing]" the bed. Appellant also admitted that he "squished" S.A.T. because she was bothering him, and acknowledged that during the incident S.A.T.'s "pants and panties came down" to "just above the crack or plus or minus." Appellant further admitted that his zipper was part way down, but claimed that he did not have an erection and that his conduct "wasn't sexual in nature at all."

A jury acquitted appellant of Count II, but found him guilty of Counts I and III. The district court then stayed imposition of sentence, placed appellant on probation, and ordered that he complete sex-offender treatment. This appeal followed.

D E C I S I O N

In considering a claim of insufficient evidence, appellate courts painstakingly review the record "to determine whether the evidence and reasonable inferences drawn therefrom, viewed in the light most favorable to the verdict, were sufficient to allow the

jury to reach its verdict." *State v. Pendleton*, 706 N.W.2d 500, 511 (Minn. 2005). A verdict will not be disturbed "if the jury, acting with due regard for the presumption of innocence and for the necessity of overcoming it by proof beyond a reasonable doubt, could reasonably conclude that a defendant was proven guilty of the offense charged." *Bernhardt v. State*, 684 N.W.2d 465, 476–77 (Minn. 2004) (quotation omitted). Further, the reviewing court assumes that the jury believed those witnesses whose testimony supports the verdict and disbelieved contradictory testimony. *Pendleton*, 706 N.W.2d at 512.

Under Minn. Stat. § 609.343, subd. 1(g) (2008), a defendant is guilty of second-degree criminal sexual conduct if the defendant has a significant relationship with the victim and the victim was under age 16 when the sexual contact occurred. "Sexual contact" is defined as the intentional touching of the victim's intimate parts, including the buttocks, with sexual or aggressive intent. Minn. Stat. § 609.341, subd. 5 (2008), subd. 11(a)(i) (Supp. 2009).

Appellant argues that the evidence was insufficient to support his conviction of second-degree criminal sexual conduct because the state failed to prove beyond a reasonable doubt that he acted with sexual or aggressive intent when he laid on S.A.T.'s bottom and "squished" her. We disagree. A showing of sexual intent does not require direct evidence of the defendant's desires or gratifications. *State v. Austin*, 788 N.W.2d 788, 792 (Minn. App. 2010), *review denied* (Minn. Dec. 14, 2010). Rather, a subjective sexual intent may be inferred from the nature of the conduct itself. *Id.*; *see also State v. Fardan*, 773 N.W.2d 303, 321 (Minn. 2009) (stating that intent is an inference drawn by

the factfinder from the totality of the circumstances); *State v. Vick*, 632 N.W.2d 676, 691 (Minn. 2001) (stating that contact described "clearly permits the inference" that the defendant acted with sexual intent).

Here, the record also reflects that appellant put S.A.T. face down on the bed, laid on top of her with his groin area on top of S.A.T.'s bottom, and "bounc[ed] up and down on her." The record also reflects that appellant's hip gyration lasted five-to-ten seconds and caused S.A.T.'s pants and underwear to start coming off, partially exposing her buttocks. Although the record indicates that appellant did not have an erection, the jury heard evidence that appellant masturbates by laying on his stomach and "hump[ing]" the bed. Because appellant's "squishing" contact with S.A.T. mimicked appellant's masturbatory habits, it was reasonable for the jury to infer that appellant acted with sexual intent when he "squished" S.A.T. Therefore, the evidence was sufficient to support appellant's conviction of second-degree criminal sexual conduct.

Affirmed.