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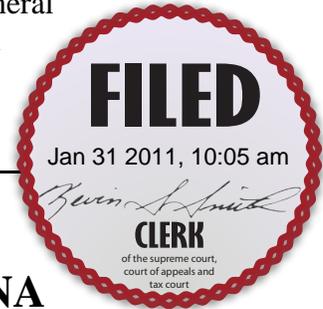
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**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES VERNON NUTE, JR.,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 48A02-1007-CR-828

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Dennis D. Carroll, Judge
Cause No. 48D01-0906-FB-96

January 31, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Charles Vernon Nute, Jr., inappropriately touched his stepdaughter more than one hundred times over the course of several years. A jury convicted him of two counts of class D felony child solicitation and one count of class C felony child molesting. On appeal, Nute challenges the sufficiency of the evidence to support his convictions. Finding the evidence sufficient, we affirm.

Facts and Procedural History

A.N. was born on April 30, 1992. When A.N. was eight years old, her mother married Nute and, along with A.N.'s brother, they lived together in Pendleton. During that time, A.N. would wake up in the middle of the night and discover Nute sitting in the corner of her room. Then, a few times a week, A.N. began to regularly awake to discover Nute lying behind her in her bed with his arm around her waist. When A.N. was nine years old, she woke up on several nights to find Nute lying in bed with her with his fingers inside the waistband of her pajama pants.

As A.N. got older, Nute became more aggressive with this type of behavior, and A.N. would try to kick and hit him to “get him off” of her. Tr. at 37. When A.N. was thirteen, the family moved to Tennessee and lived with Nute's mother for two years. A.N. returned with her mother to Indiana shortly before A.N. turned fifteen. Nute and A.N.'s mother were having marital problems, so Nute did not return to live with the family until about a month later. After moving back to Indiana, there was an occasion when A.N. fell asleep on the couch and she woke up to find Nute with his hand in her pants touching her vagina. Also,

Nute fondled A.N.'s breasts on at least two occasions, once when she was eleven and once when she was fifteen.

The State charged Nute with two counts of class D felony child solicitation, one count of class C felony child molesting, one count of class C felony sexual misconduct with a minor, and one count of class B felony sexual misconduct with a minor. A jury trial was held on May 25 through 27, 2010. The jury found Nute guilty on the first three counts, and not guilty on the fifth count. The trial court declared a mistrial on the fourth count. This appeal ensued.

Discussion and Decision

Nute challenges the sufficiency of the evidence to support his convictions.¹ When reviewing a sufficiency of the evidence claim, we do not reweigh the evidence or assess the credibility of the witnesses. *Treadway v. State*, 924 N.E.2d 621, 639 (Ind. 2010). Instead, we look to the evidence and reasonable inferences drawn therefrom that support the verdict, and we will affirm the convictions if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *Id.*

Nute's sole contention on appeal is that A.N.'s testimony at trial was contradictory and

¹ To convict Nute of the two counts of class D felony child solicitation, the State was required to prove beyond a reasonable doubt that Nute knowingly or intentionally solicited "a child under fourteen (14) years of age" to engage in "any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person," (Count I), and that Nute knowingly or intentionally solicited "a child at least (14) years of age but less than sixteen (16) years of age" to engage in "any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person," (Count II). Ind. Code § 35-42-4-6. To convict Nute of class C felony child molesting, the State was required to prove beyond a reasonable doubt that Nute, "with a child under fourteen (14) years of age, perform[ed] or submit[ted] to any fondling or touching, of either the child or the older person, with the intent to arouse or satisfy the sexual desires of either the child or the older person." Ind. Code § 35-42-4-3(b).

generally “weak.” Appellant’s Br. at 12. We note that the uncorroborated testimony of the victim is sufficient to support a conviction. *Stewart v. State*, 768 N.E.2d 433, 435 (Ind. 2002). Contrary to Nute’s assertion, A.N. testified unequivocally that on several occasions when she was age eight, nine, eleven, and fifteen, Nute touched her around the waist, placed his hand inside her pajama pants, and fondled her breasts. A.N. was clear in her testimony that on at least one of those occasions, Nute put his fingers into her underwear and she could feel his fingers inside the outer lips of her vagina. Tr. at 43. From this clear and unequivocal testimony, the jury could reasonably infer that Nute was guilty of his crimes beyond a reasonable doubt.

The evidence presented at trial was sufficient to sustain Nute’s convictions for two counts of class D felony child solicitation and one count of class C felony child molesting. Nute’s claim essentially amounts to an invitation for this Court to reweigh the evidence and reassess witness credibility, tasks not within our prerogative on appeal.

Affirmed.

KIRSCH, J., and BRADFORD, J., concur.