

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs March 28, 2023

FILED

06/12/2023

Clerk of the  
Appellate Courts

**STATE OF TENNESSEE v. CODY LYNN WYRICK, ALIAS**

**Appeal from the Criminal Court for Knox County  
No. 112658 Steven W. Sword, Judge**

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**No. E2022-00956-CCA-R3-CD**

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The defendant, Cody Lynn Wyrick, Alias, appeals his Knox County Criminal Court jury convictions of rape of a child, rape, and aggravated sexual battery, arguing that the evidence was insufficient to support his convictions. Discerning no error, we affirm.

**Tenn. R. App. P. 3; Judgments of the Criminal Court Affirmed**

JAMES CURWOOD WITT, JR., P.J., delivered the opinion of the court, in which JILL BARTEE AYERS, and KYLE A. HIXSON, JJ., joined.

Joshua Hedrick (at motion for new trial hearing and on appeal), and David Gall (at trial), Knoxville, Tennessee, for the appellant, Cody Lynn Wyrick, Alias.

Jonathan Skrmetti, Attorney General and Reporter; Courtney N. Orr, Assistant Attorney General; Charme P. Allen, District Attorney General; and Sarah Keith and Tammy Hicks, Assistant District Attorneys General, for the appellee, State of Tennessee.

**OPINION**

The Knox County Grand Jury charged the defendant by presentment with one count of rape of a child, one count of rape, and two counts of aggravated sexual battery.

At the May 2019 trial, the victim, who was seventeen years old at the time of trial, testified that she lived with her parents and siblings in Knoxville. She said that in 2010 or 2011, her mother's friend and the defendant moved in with the victim's family. The victim described the defendant as "a family friend that I'd grown to care about because he was family." The victim said that when she was "about eight, nine years old," she and her siblings were playing a hide-and-go-seek-type game with the defendant, and she and her sister "hid in the bathroom. When [the defendant] found us, my sister ended up getting out" of the room. The victim, who had been hiding in the bathtub, "tried running out the

door, but I wasn't fast enough," and the defendant "closed the door . . . , and he ended up pinning me to the bathroom door and raping me." She explained, "He just kind of pushed me up against the door. And I tried hollering for help, but help wasn't really an option because we were playing a game. And we were all screaming for help, but he pinned me up on my front side against the door." The victim said that she had one hand on the door knob but that the defendant "had his hand over mine" preventing her from opening the door. She said that the defendant then "pulled my pants down" and placed his penis in "my butt." She also said that the defendant "called me his baby girl and told me that it was going to be okay." After the incident, the victim "went to my room and cried."

The victim described a second incident in which she was upset and wanting her mother, who would not be home until later that night. The victim "was sitting outside on . . . a porch swing and just crying, wishing my mom would come home. And [the defendant] came out there, and he ended up sitting next to me. And he put his hand down my shirt," "[i]n my bra," and touched her breast. The victim testified that in a third incident, she was home alone with the defendant when the defendant brought her to the victim's mother's bedroom. She said that the defendant wanted her to "[p]lay with him" by "stro[k]ing his penis" with her hand and that she "ended up doing what he asked."

The victim said that during a forensic interview, she "couldn't physically bring myself to tell [the interviewer] what happened," so she wrote down what the defendant had done to her. The victim's written statements said, "He had my hand and was making it go up and down his P" and "I was rap[ed] in the butt."

During cross-examination, the victim said that during the incident in the bathroom, the defendant "told me that it was going to be okay" and that the defendant stopped raping her when her brother came to the other side of the bathroom door and said, "The game's over. He's done playing." She said that when she left the bathroom and went to her bedroom, she "was hurting." She explained that while the defendant was raping her, she "hollered for help and was beating on the door, but [her siblings] were beating back" because they were playing a game. She said that the incident in her mother's bedroom lasted one to two minutes because the defendant was interrupted by someone else coming home.

During redirect examination, the victim clarified that after the incident in the bathroom, she felt "a sharp pain feeling, like somebody was stabbing me" in her buttocks and that "[i]t hurt to sit down."

The victim's mother testified that she and the victim had been "close for a long time" but that she "saw a difference starting in 2012." At that time, the victim's

mother worked a 5:00 a.m. to 3:00 p.m. shift at one job then “immediately” went to a second job where she worked until 9:00 or 10:00 p.m. In 2012, the defendant moved in with her and her children and stayed from March to July of that year. She said that “we treated each other as family” and that the defendant would play games with the children while she was at work.

Knox County Sheriff’s Office Detective Jason Myers testified that in September 2017, he worked in the family crisis unit investigating child abuse cases. He received a referral from the Department of Children’s Services (“DCS”) that the victim had disclosed that the defendant had abused her. Detective Myers said that he, another detective, and a DCS employee interviewed the defendant at the defendant’s residence in October 2017. He recorded the interview, and the jury listened to the recording.

During the recorded interview, the defendant said that he stayed the night with the victim’s family for two nights. The defendant said that he and his girlfriend would watch the victim and her siblings while the victim’s mother was at work but denied that he was ever alone with the kids, saying that his girlfriend was always with him when he was around the children. He acknowledged that the victim “grabbed me once through my pants” but said that he “told her to quit and she turned around and walked off.” Later in the interview, the defendant acknowledged that on one occasion, the victim walked into the bedroom where he was lying in bed, pulled his pants down, “grabbed” his penis, and “played with it for a second.” He said that during the incident in the bathroom, he “grabbed [the victim’s] butt” before walking out and that the victim’s pants “might have been down.” He then said that the victim pulled his pants down and “grabbed” his penis and “played with it” and that he “touched her butt with my hand.” He finally acknowledged that he “rubbed [his penis] against her butt” and that he “stuck it in” the victim’s anus “just a little bit.”

Detective Myers said that his interview strategy was to “try to build a rapport” with the defendant by “minimiz[ing] the allegations.” He acknowledged that he “accuse[d] the victim of being aggressive towards [the defendant]” in order “to get his rapport back to me so he would finally tell me what he did.” Detective Myers acknowledged that he had “zero information that this child ever was sexually active or an aggressor at all” but acknowledged that he told that to the defendant in order “to minimize . . . what he did.” He said that he also told the defendant that the victim’s medical exam indicated that she had had sex five years prior but acknowledged that that was also untrue.

During cross-examination, Detective Myers acknowledged that he lied to the defendant about the information he had and said that lying was a technique he used “to find out the truth.” He said that during the interview, the defendant first lied about knowing the

victim's family or living with them but eventually admitted to the allegations.

The State rested.

The defendant testified that he stayed at the victim's residence for only "four days." He denied that he ever had sexual contact with the victim. He said that he did not remember talking to Detective Myers because at the time of the interview he had just been released from the hospital, "was on some medicine . . . for a kidney stone," and "had smoked some weed." He acknowledged that it was his voice on the recording. He said that he did not know why he told the detective that he had done the things of which he was accused but said that he was working with his uncle at the time of the alleged incidents and was not at the house.

During cross-examination, the defendant said that everything that he told Detective Myers "was a lie because I was scared . . . and I didn't know what was going on." He said that "every day that I was . . . staying at [the victim's] house, I was working with my [u]ncle," "building a garage." He reiterated that he stayed at the victim's house for only "three or four days," during which time he "was always gone through the day time," leaving at 7:30 a.m. each morning and returning at 8:00 p.m. each night.

The defendant rested.

On this evidence, the jury convicted the defendant of one count of rape of a child and one count of rape for the incident that occurred in the bathroom and one count of aggravated sexual battery for the incident in which he made the victim masturbate him. The jury found the defendant not guilty of the count of aggravated sexual battery relating to the incident in which he was alleged to have put his hand down the victim's shirt. After a sentencing hearing, the trial court sentenced the defendant to an effective 40 years' incarceration.

Following a timely but unsuccessful motion for a new trial, the defendant filed a timely notice of appeal. In this appeal, the defendant contends that the evidence is insufficient to support the convictions, arguing that his statement to Detective Myers should be given little weight because of the detective's dishonest tactics.

Sufficient evidence exists to support a conviction if, after considering the evidence—both direct and circumstantial—in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Tenn. R. App. P. 13(e); *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011). This court will neither re-weigh the

evidence nor substitute its inferences for those drawn by the trier of fact. *Dorantes*, 331 S.W.3d at 379. The verdict of the jury resolves any questions concerning the credibility of the witnesses, the weight and value of the evidence, and the factual issues raised by the evidence. *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978). Significantly, this court must afford the State the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. *Id.*

As charged in this case, “[r]ape of a child is the unlawful sexual penetration of a victim by the defendant . . . , if the victim is more than three (3) years of age but less than thirteen (13) years of age.” T.C.A. § 39-13-522(a) (2010). Rape is the “unlawful sexual penetration of a victim by the defendant” accomplished by “[f]orce or coercion.” *Id.* § 39-13-503(a)(1). Sexual penetration includes “anal intercourse, or any other intrusion, however slight, of any part of a person’s body . . . into the genital or anal openings of the victim’s . . . body.” *Id.* § 39-13-501(7). “Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim” when “[t]he victim is less than thirteen (13) years of age.” *Id.* § 39-13-504(a)(4). “‘Sexual contact’ includes the intentional touching of the victim’s, the defendant’s, or any other person’s intimate parts, . . . if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification . . . .” *Id.* § 39-13-501(6). “‘Intimate parts’ includes the primary genital area . . . .” *Id.* § 39-13-501(2) (2010).

Here, the evidence adduced at trial taken in the light most favorable to the State established that when the victim was eight or nine years old, the defendant trapped her in the bathroom, pinned her against the door, and inserted his penis into her anus. In another incident, the defendant asked the victim to join him in the victim’s mother’s bedroom and made the victim masturbate him with her hand, stopping only because someone else came home. This evidence sufficiently supports the defendant’s convictions. The defendant’s argument that his recorded confession “should be given very little weight” because of the detective’s dishonest tactics is meritless. The jury heard testimony that the defendant was under the influence of drugs during the interview and that the detective lied to the defendant and afforded the evidence the weight they saw fit. It is solely within the purview of the jury to determine the credibility and weight of the evidence, and we will not second guess those determinations. *Cabbage*, 571 S.W.2d at 835.

Accordingly, we affirm the trial court’s judgments.

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JAMES CURWOOD WITT, JR., PRESIDING JUDGE