

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR09-390

JEFFERY LYNN MOSS a/k/a JEFF
MOSS
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered May 5, 2010

APPEAL FROM THE PERRY
COUNTY CIRCUIT COURT
[NO. CR07-21]

HONORABLE RICHARD NILE
MOORE, JR., JUDGE

AFFIRMED

WAYMOND M. BROWN, Judge

A Perry County jury convicted appellant Jeffery Lynn Moss of the 1997 rape of Samantha Suzanne Quinn,¹ when she was under the age of fourteen. Moss was sentenced to ten years' imprisonment. Moss argues on appeal that the evidence is insufficient to support his rape conviction. Specifically, he argues that the State failed to meet its burden of proving that Moss engaged in sexual activity with Quinn before she turned fourteen. We affirm.

In reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the verdict, considering only the evidence supporting the verdict, to determine whether the verdict is supported by substantial evidence, direct or

¹At the time of the jury trial, Quinn was married to Moss's nephew and her last name was also Moss.

circumstantial.² Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture.³ Matters such as evaluating a witness's credibility and resolving inconsistencies in the evidence are issues for the jury and not the court.⁴

Arkansas Code Annotated section 5-14-103(a)(3)(A)(Supp. 2009), provides that a person commits rape if he engages in sexual intercourse with another person who is less than fourteen years old. The uncorroborated testimony of a rape victim is sufficient to support a conviction if the testimony satisfies the statutory elements of rape.⁵ Scientific evidence is not required to support a rape conviction.⁶ Generally, the time a crime is alleged to have occurred is not of critical significance unless the date is material to the offense.⁷ Any discrepancies in the evidence concerning the date of the offense are for the jury to resolve.⁸

Quinn, whose birthday is August 18, 1983, testified that Moss was her older sister's boyfriend when he first began raping her.⁹ According to Quinn, Moss first assaulted her in

²*Kelley v. State*, 375 Ark. 483, 292 S.W.3d 297 (2009).

³*Id.*

⁴*Mingboupha v. State*, 2009 Ark. App. 709.

⁵*Gilliland v. State*, 2010 Ark. 135, 361 S.W.3d 279.

⁶*Gatlin v. State*, 320 Ark. 120, 895 S.W.2d 526 (1995).

⁷*Kelley, supra*.

⁸*Id.*

⁹By the time of trial, Moss and Quinn's sister had been married for a number of years.

May 1997, at the end of her eighth grade year. Quinn stated that she had a nightmare one night and went into the bedroom Moss shared with her sister. Quinn's sister was at work; however, Quinn got into bed with Moss, believing him to be asleep. Moss reached over and "grabbed [Quinn's] breast." Quinn "got loose" and went into her bedroom. Moss followed Quinn into the bedroom and told her not to tell anyone. Quinn testified that she did not tell anyone because she was only thirteen, was scared of Moss, and was afraid of getting in trouble. According to Quinn, a couple of days later, Moss came into her bedroom and had intercourse with her. Moss again told Quinn not to tell anyone. Quinn testified that Moss continued to have sex with her until she turned sixteen or seventeen. She stated that she lived with her sister and Moss until she was about nineteen. Quinn said that she got pregnant by Moss in 1997 and delivered her daughter on May 29, 1998, at forty-two weeks. Quinn testified that she never told anyone until 2006 that Moss was her daughter's father.¹⁰ Quinn stated that "[f]rom the time when I was 13, almost 14, until I was 16, I never told anyone I was having sex with him." Quinn said that she believed that she conceived her child on August 9, 1997, her cousin's birthday, when she and Moss had sex. According to Quinn, she is "good with birthdays, and numbers, and things like that." Quinn stated that Moss first raped her in May or June 1997 and that she remembered the date because it was the end of her eighth grade year. "The end of my eighth grade is just something you never forget."

¹⁰Quinn allowed her sister and Moss to adopt her daughter and raise her when she was six years old.

Dr. Andrew Cole testified that he treated Quinn in October 1997 when she was about ten weeks pregnant. He stated that Quinn's expected due date was May 15, 1998, but that it was not uncommon to let people go to forty-two weeks. According to Dr. Cole, Quinn's date of conception was somewhere around August 21st or 22nd. However, Dr. Cole stated that the conception date could have been "somewhere within ten days" of the estimated date of conception.

At the conclusion of the State's case, Moss made a directed-verdict motion arguing that the medical evidence was inconclusive as to the age of Quinn when he had sex with her. Moss also argued that Quinn's testimony concerning when the rape occurred did not meet the standard of beyond a reasonable doubt. The court denied the motion. Moss renewed his motion at the conclusion of all of the evidence, and it was again denied. The jury convicted Moss of rape.

Substantial evidence supports Moss's conviction. Quinn testified to at least two specific times when Moss had sex with her prior to her fourteenth birthday. The first time was in May or June of 1997 and the second time was on August 9, 1997. Quinn did not turn fourteen until August 18, 1997. Moss attempts to discredit Quinn's testimony by focusing on the date she conceived their child. However, as stated above, a rape victim's testimony does not have to be corroborated and scientific evidence is not required to support a rape conviction. The jury clearly gave credence to Quinn's testimony; we, therefore, affirm.

Affirmed.

GLADWIN and HENRY, JJ., agree.