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ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-22-713

SERAFIN RAMIREZ BAHENA
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered May 3, 2023

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. 26CR-19-752]

HONORABLE MARCIA R.
HEARNSBERGER, JUDGE

AFFIRMED

WENDY SCHOLTENS WOOD, Judge

Serafin Bahena appeals the sentencing order entered by the Garland County Circuit Court convicting him of rape and second-degree sexual assault. He was sentenced to consecutive terms of twelve years' imprisonment for the rape conviction and six years' imprisonment for the sexual-assault conviction. On appeal, Bahena challenges only the sufficiency of the evidence supporting the sexual-assault conviction. We affirm.

On July 31, 2019, Minor Child (MC), then fourteen years old, told her mother that Bahena, MC's uncle, who was five years older than MC, had been sexually abusing her. At Bahena's June 2022 trial, MC recounted multiple incidents of sexual abuse committed by Bahena since she was nine years old. During much of this time, Bahena was also a minor. However, Bahena's second-degree sexual-assault conviction stems from a particular period of

time between Bahena's eighteenth birthday in February 2018 and MC's fourteenth birthday in November 2018. MC testified that there were "a lot" of times during those nine months when she and Bahena were at her grandparents' house on the couch in the living room or in Bahena's bedroom, and Bahena put his hands inside her shorts and rubbed on top of her vagina. She also said that he put his hands and his mouth on her breasts. MC also testified about an incident in June 2019 when Bahena put his fingers inside her vagina.

The State played for the jury the video of Bahena's interview at the Garland County Sheriff's Office on July 31, 2019, wherein he admitted that on one occasion, about two months earlier, he had inserted his fingers inside MC's vagina. He also admitted that on other occasions, he had touched her vagina. When asked, "[H]ow many times do you think this happened where y'all touched each other or you touched her?" Bahena answered, "I'd say more than fifty maybe or eighty. . . ."

On this evidence, the jury convicted Bahena of rape and second-degree sexual assault. On appeal, he challenges only the sufficiency of the evidence supporting the second-degree sexual-assault conviction.

When reviewing a challenge to the sufficiency of the evidence, we must assess the evidence in the light most favorable to the State and consider only the evidence that supports the verdict. *Collins v. State*, 2021 Ark. 35, at 4, 617 S.W.3d 701, 704. We affirm a conviction if substantial evidence exists to support it. *Price v. State*, 2019 Ark. 323, at 4, 588 S.W.3d 1, 4. Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion without resorting to speculation or conjecture. *Id.*,

588 S.W.3d at 4. Witness credibility is an issue for the fact-finder, which may believe all or part of any witness's testimony and may resolve questions of conflicting testimony and inconsistent evidence. *McKisick v. State*, 2022 Ark. App. 426, at 4, 653 S.W.3d 839, 843.

Arkansas Code Annotated section 5-14-125 provides that “a person commits sexual assault in the second degree if the person: . . . [b]eing eighteen (18) years of age or older, engages in sexual contact with another person who is less than fourteen (14) years of age[.]” Ark. Code Ann. § 5-14-125(a)(3) (Supp. 2021). “Sexual contact” includes an act of sexual gratification involving the touching, directly or through clothing, of the sex organs of a person or the breast of a female. Ark. Code Ann. § 5-14-101(12) (Supp. 2021).

Bahena's only argument on appeal is that the State failed to present sufficient evidence that a sexual assault occurred at a time when MC was less than fourteen years old and he was eighteen years old as required by the relevant statute. However, MC testified that, between the months of February and November 2018 when she was thirteen and Bahena was eighteen, Bahena put his hands inside her shorts and rubbed on top of her vagina and put his hands and his mouth on her breasts.

A sexual-assault victim's testimony may constitute substantial evidence to sustain a conviction for sexual assault. *Brown v. State*, 374 Ark. 341, 343, 288 S.W.3d 226, 229 (2008). The victim's testimony need not be corroborated, and the victim's testimony alone, describing the sexual contact, is enough for a conviction. *Halliday v. State*, 2011 Ark. App. 544, at 2, 386 S.W.3d 51, 53. Viewed in the light most favorable to the State, we hold that

MC's testimony constitutes substantial evidence to support Bahena's conviction for sexual assault in the second degree.

Affirmed.

HARRISON, C.J., and GLADWIN, J., agree.

John Wesley Hall and Samantha J. Carpenter, for appellant.

Tim Griffin, Att'y Gen., by: *Joseph Karl Luebke*, Ass't Att'y Gen., for appellee.