

Cite as 2024 Ark. App. 300
ARKANSAS COURT OF APPEALS
DIVISION IV
No. CR-23-410

JONATHAN MORRISON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 8, 2024

APPEAL FROM THE PERRY
COUNTY CIRCUIT COURT
[NO. 53CR-18-65]

HONORABLE ANDREW GILL, JUDGE

AFFIRMED

CINDY GRACE THYER, Judge

Jonathan Morrison was convicted of second-degree sexual assault by a Perry County jury and was sentenced to twenty years in the Arkansas Department of Correction. He now appeals that conviction, arguing that there was insufficient evidence to support the conviction. We affirm.

On October 10, 2018, Morrison was charged with one count of rape for allegedly engaging in sexual intercourse or deviate sexual activity with his minor daughter, MC. The charge was subsequently reduced to one count of second-degree sexual assault. The amended information alleged that Morrison had engaged in sexual contact with MC while he was her guardian, temporary caregiver, or a person in a position of trust or authority over her.

A trial on the sexual-assault charge was held on September 20, 2022, and the following facts were developed.

Thirteen-year-old MC testified that in June 2018, she was living with Morrison, her mother Carolyn “Carrie” Morrison, and her younger brother and sister. Her aunt, uncle, and cousin were also living with them at the time, but they were not present at the time of the incident.

MC testified that on the night in question, she had fallen asleep in the living room with her brother and sister. She stated that she had a bad dream and had gone into her aunt’s bedroom to pet her aunt’s dog in an attempt to comfort herself. When she leaned over the bed to get the dog, Morrison came into the room and approached her from behind. He tugged her off the bed, pulled down her pants, placed her on the ground on her stomach, and put his penis in her “butt.” After claiming that it did not hurt when he did so, she clarified that he had actually placed his penis in between her “butt cheeks.” She stated that she did not say anything to him at that time; she was scared and just “froze.” She was nine years old at the time.

MC then testified that her mother walked by the room while the assault was occurring. The door to the room was open, and Morrison and MC were on the floor in front of the door. MC did not call out for help, and her mother did not do anything. Instead, her mother looked in the room and just walked away.

When it was over, Morrison left the room, and MC went into the bathroom to clean up. She testified that there was “gooey stuff” on her butt and in her underwear. After cleaning up, she went back to the living room and lay down on the couch. MC testified that she could hear Morrison and her mother in the other room arguing. Her mother came out

and asked her what Morrison had done to her, and MC responded “nothing.” She testified she had been scared and did not know what to say. MC testified that this was the first time this had ever happened, and she did not know why it happened that night.

Sometime later, MC told her friend, MC1, and MC1’s aunt, Nakina Allen, what had happened. They informed her mother and then the police. The police questioned MC about the assault, and she was physically examined. She and her siblings were subsequently removed from the home and placed with their paternal grandparents.

MC later recanted and told her grandparents the assault never occurred. She explained that her grandparents had pressured her into doing so and had told her that she would be able to go home if she did so. She testified that she recanted only because she wanted to go home.

Nakina Allen was the next witness. She stated that she had known Morrison her whole life and that she had sold drugs to, and used drugs with, Carrie in the past. She testified that on June 26, 2018, MC had confided to her that Morrison had been touching and raping her. Nakina explained to MC that if what she said were true, Morrison might go to jail, that she would have significant interaction with DHS and the police, and that she and her siblings might be removed from the home. She stated that she told MC that because she wanted to make sure that MC knew the ramifications of the allegations and to ensure that MC was telling the truth.

Nakina talked to MC1’s mother when she got home, and they decided they needed to report the assault. They spoke to Carrie when she came to pick up MC. Nakina stated

that Carrie was aware of the assault. Carrie informed them that she had walked in when it was happening and that MC's story was true. Nakina then contacted the Perry County Sheriff's Office, who advised them to contact child protective services.

On cross-examination, Nakina admitted that she knew Carrie and Morrison were having marital problems and that Carrie had asked her to find out why MC did not like Morrison. Nakina also testified that MC told her that Morrison had put his penis inside her, that it made her bottom hurt, and that it was hard to "go number two." She stated that MC was lying if she said otherwise.

Linda Powell, an investigator with the Arkansas State Police Crimes Against Children Division (CACD), was the next witness, and she testified regarding her investigation. She stated that the assault was reported on June 26, 2018, and she was assigned the next day. Powell contacted Carrie, who brought MC to the Children's Advocacy Alliance in Conway for a forensic interview. Powell observed the forensic interview and also spoke with Carrie. She then contacted the Division of Children and Family Services (DCFS) and requested that they conduct a safety response. The safety plan did not allow for any contact between Morrison and MC. She then arranged for a medical exam and for MC's siblings to be interviewed.¹ MC's medical exam and the sibling interviews took place on June 28.

¹The siblings did not disclose any abuse.

On August 22, Powell received a call about concerns that the children were back in the home with Morrison. As a result, the children were removed from the parents' care and were placed in their paternal grandparents' care.

Powell was later informed that MC had recanted. Powell stated that she then spoke to MC: MC was emotional, her recantation was not consistent with the series of events, and her explanation for why she had recanted concerned her. Powell stated that she believed there had been pressure coming from the home to recant. Following her conversation with MC, Powell expressed concerns to DCFS about MC's safety, and the children were removed from the grandparents' care.

Sergeant Keenan Carter, an investigator with the Perry County Sheriff's Office, was the next to testify. He testified that he became involved in the case in August 2018. He stated that he attempted to contact Morrison at his residence on August 20, but he was not home. However, he was surprised to find Carrie there because it was his understanding that Carrie and the children had moved to a different location due to the sexual-abuse allegations. As he was questioning Carrie, the school bus arrived, and all the children, including MC, got off the bus. He reported the incident to Powell.

On August 22, Carter interviewed both Morrison and Carrie.² Morrison was advised of his *Miranda* rights prior to the interview. He denied having sexually assaulted MC. In an

²Carrie's interview both confirmed and conflicted with portions of Morrison's statement. The substance of her statement was not provided because it was objected to on hearsay grounds. Sergeant Cook testified that he had attempted to serve Carrie with a subpoena for trial but was unsuccessful.

effort to explain MC's story, Morrison claimed that on the night in question, he and Carrie had had an argument. They then engaged in make-up sex—including oral sex—ending with Morrison ejaculating into his hand. While he and Carrie were engaged in sexual intercourse, he heard MC moving around the house. When they were done, Morrison got up to discipline her for being up, and he spanked her. Morrison signed a written statement to that effect at the end of the interview. He never admitted penetrating or rubbing his penis between MC's butt cheeks. He was released after providing this statement. A recording of his interview and a copy of his written statement were admitted into evidence and played to the jury. Morrison gave a separate statement on August 27. After that interview, he was arrested and charged with rape.

Then, in September, Sergeant Cook received a phone call from Morrison's father, Michael Morrison. Michael informed Sergeant Cook that MC wanted to recant her allegations against her father. As a result of that conversation, Sergeant Cook notified the Child Advocacy Center (CAC) to set up another interview with MC.

Dr. Karen Farst, who specializes in general and child-abuse pediatrics, also testified. She testified that she reviewed MC's medical records,³ including MC's statement that "[m]y dad put his private part inside my butt and goeey white stuff came out." She said that MC reported that the wet goeey stuff came out of her butt, but that it did not hurt. A physical

³Dr. Farst did not personally perform the physical exam. Marissa Green, a nurse, actually performed the evaluation.

exam did not show any medical findings for sexual assault or a healed injury from sexual abuse. She noted that this, however, did not mean that a sexual assault did not occur, because the genital and anal areas are very elastic and tend to heal very quickly. And after approximately seventy-two hours, there is essentially no yield to collecting DNA evidence of a child's body. MC's exam happened much later than the reported assault.

Dr. Farst also testified that it was not abnormal for a child to delay reporting sexual abuse because the alleged offender is often known to the child. As a result, there can be a delay—from days to even years—in reporting. Nor is it unusual for a child to recant an allegation of abuse, especially when the child perceives that the disclosure has caused an issue within the family unit.

After Dr. Farst's testimony, the State rested, and Morrison moved for a directed verdict, arguing that the State had "nobody but the victim to say that this even happened." The court denied the motion.

The defense then called Morrison and his father, Michael Morrison, as witnesses. Michael testified that MC and her siblings lived with him for approximately five to six months. During that time, MC informed him that the abuse never happened. MC told him that she had been bullied into making the allegations by Nakina. MC reported that Nakina had threatened to have MC beaten by her child if she did not accuse her father of abuse. Michael testified that it was his understanding that Nakina's child had bloodied MC's nose and placed her in a closet in the past. He said he contacted Sergeant Cook, but Sergeant Cook was not interested in checking out MC's story any further and "had everything he

needed.” He stated that he would be surprised to find out that Sergeant Cook informed DHS and CACD of his report. After he reported MC’s recantation, the children were removed from his home, and Morrison was charged with rape. He stated that he loves his son and did not want him to get into any trouble but would not lie for him.

Morrison then testified on his own behalf. He testified that MC was born shortly before he married her mother and that he adopted MC when she was one. He stated they had a normal father/daughter relationship. He again denied having sexually assaulted MC.

On cross-examination, the State asked about the first statement Morrison gave to the police and asserted that he could not adequately explain how he knew which night MC was describing if he had not sexually assaulted her. He responded that he gave the best explanation he could because he did not know where MC got the things she said. He admitted that he was attempting to give an explanation as to why his semen might be on MC’s butt and why his DNA might be present. He further explained that MC acts older than her age and apparently knows the details of sex acts. He denied, however, that she acted out in any sexual nature. He further testified that even after her medical examination, MC wanted to hug him and be near him.

At the conclusion of all the evidence, defense counsel renewed his motion for directed verdict. It was again denied. The case was submitted to the jury, which returned a guilty verdict on second-degree sexual assault. The jury recommended a twenty-year sentence, which the court imposed. Morrison filed a timely notice of appeal.

On appeal, Morrison challenges the sufficiency of the evidence to support his conviction. He essentially argues that MC's testimony was not credible because her recall of the facts surrounding her allegations was spotty and that her reason for reporting her allegations of sexual abuse was suspect. He was initially charged with rape following MC's claim that he had placed his penis in her anus, but the charge was reduced after she changed her story. She later fully recanted her allegations. Moreover, he claims that the only person MC reported the abuse to was Nakina Allen. He asserted that Nakina has a criminal history and had a motive to have MC fabricate the sexual-abuse allegations—she was Carrie's "drug buddy," and Carrie and Morrison were having marital issues.

In reviewing challenges to the sufficiency of the evidence, we determine whether substantial evidence, direct or circumstantial, supports the verdict. *Ralston v. State*, 2019 Ark. App. 175, 573 S.W.3d 607. Substantial evidence is evidence of sufficient certainty to compel a conclusion without resort to suspicion or conjecture. *Id.* This determination, along with the credibility of witnesses and the weight of the evidence presented at trial, is left to the jury. *Milton v. State*, 2023 Ark. App. 382, 675 S.W.3d 173. It "is the function of the jury, and not the reviewing court, to evaluate [such] and to resolve any inconsistencies in the evidence." *Bolen v. State*, 2023 Ark. App. 373, at 21, 675 S.W.3d 145, 156. Moreover, we view the evidence in the light most favorable to the State and consider only the evidence that supports the verdict. *Hillman v. State*, 2019 Ark. App. 89, at 2, 569 S.W.3d 372, 374.

Morrison was convicted of second-degree sexual assault pursuant to Arkansas Code Annotated section 5-14-125(a)(4) (Supp. 2019). Under subdivision (a)(4), a person commits

sexual assault in the second degree if he engages in sexual contact with a minor and is the minor’s guardian, a temporary caretaker, or a person in a position of trust or authority over the minor.⁴ Ark. Code Ann. § 5-14-125(a)(4)(A)(iv). Sexual contact “means any act of sexual gratification involving the touching, directly or through clothing, of the sex organs . . . of a female[.]” Ark. Code Ann. § 5-14-101(11) (Supp. 2019).

In sex-crime prosecutions, a victim’s testimony need not be corroborated to support conviction. *E.g.*, *Bahena v. State*, 2023 Ark. App. 261, at 3, 667 S.W.3d 553, 555–56. We have consistently held that a victim’s testimony alone amounts to substantial evidence that will support a conviction if the testimony adequately specifies the acts prohibited by law. *E.g.*, *Langlois v. State*, 2023 Ark. App. 263, at 8–9, 666 S.W.3d 884, 889. And such testimony is substantial evidence of guilt, “even when the victim is a child.” *McCauley v. State*, 2023 Ark. 68, at 4, 663 S.W.3d 383, 386.

In accordance with these standards, the evidence presented at trial clearly substantiated that Morrison, MC’s father, sexually assaulted MC. MC testified that in June 2018, when she was nine years old, her father pulled down her pants and underwear, placed his penis between her butt cheeks, and ejaculated. Her testimony alone is sufficient to support the elements of second-degree sexual assault. Morrison claims this is a classic “he said, she said” case; however, the credibility of this evidence was an issue for the jury to decide. Because there was sufficient evidence to support the jury’s verdict, we affirm.

⁴Subdivision (a)(4) also applies to an employee in the minor’s school or school district. Ark. Code Ann. § 5-14-125(a)(4)(A)(iv).

Affirmed.

ABRAMSON and MURPHY, JJ., agree.

Merritt Law Firm, by: *Sara F. Merritt*, for appellant.

Tim Griffin, Att'y Gen., by: *Michael Zangari*, Ass't Att'y Gen., for appellee.