

MEMORANDUM DECISION

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ATTORNEYS FOR APPELLANT

Valerie Kent Boots
Joshua C. Vincent
Marion County Public Defender Agency
Appellate Division
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
Nicole D. Wiggins
Deputy Attorney General
Alexandria Sons
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Michael W. Riddell,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 21, 2023

Court of Appeals Case No.
23A-CR-858

Appeal from the Marion Superior
Court

The Honorable Cynthia L. Oetjen,
Judge

Trial Court Cause No.
49D30-2011-FA-35425

Memorandum Decision by Judge Bailey
Judges May and Felix concur.

Bailey, Judge.

Case Summary

- [1] Michael Riddell appeals his conviction for child molesting, as a Class A felony.¹ Riddell raises one issue for our review, namely, whether the State presented sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

- [2] C.M.'s mother is Amanda Riddell ("Amanda"), and Riddell is C.M.'s uncle. Amanda and C.M. "moved around a lot" when C.M. was a child. Tr. at 58. At one point, Amanda and C.M. lived with an aunt of C.M.'s. During the time they lived at that house, Riddell would occasionally stay there.
- [3] One night, when C.M. was approximately ten years old, Amanda, C.M., and Riddell all fell asleep on the couch. C.M. woke up to Riddell's "hands being on [her] thigh and then going up." *Id.* at 63. It felt "uncomfortable," and C.M. "kept pretending to be asleep[.]" *Id.* at 64. C.M. then felt Riddell's "hands being put in [her] pants, and she felt him "kissing on her neck and ear." *Id.* Riddell whispered in C.M.'s ear that "he wanted to take [her] downstairs and bend [her over[.]" *Id.* at 65. C.M. "wanted it to stop." *Id.* at 64. Riddell then "put his fingers in [her]" and was "movin 'em back/forth[.]" *Id.* at 65-66.

¹ Ind. Code § 35-42-4-3(a)(1) (2014).

C.M. felt “trapped[.]” *Id.* at 66. Riddell eventually “took [his fingers] out” and “went back to sleep.” *Id.* at 65.

[4] C.M. reported what had happened to her friend, A.D. A.D. advised C.M. to “go to an adult,” but C.M. was not “ready[.]” *Id.* C.M. also believed that Riddell would not “live much longer,” so she did not think it was “necessary” to report his actions. *Id.* at 68. Ultimately, after A.D. “encouraged” her, C.M. reported the allegations to Amanda. *Id.* However, C.M. informed Amanda that she “didn’t want to take this to court,” so neither of them reported the actions to the authorities. *Id.* at 69.

[5] Later, when C.M. and A.D. were in eighth grade, their school held a seminar about “molestation and rape.” *Id.* at 51. During the seminar, the school provided papers to all of the students and asked them to “write someone’s name on it if there was someone [they] knew or if [they themselves] had experienced . . . being raped or molested.” *Id.* A.D. wrote down C.M.’s name. C.M. was then called down to the school’s office, and the Indiana Department of Child Services and the police were ultimately notified.

[6] The State charged Riddell with two counts of child molesting, as Class A felonies (Counts 1 and 2), and two counts of child molesting, as Class C felonies (Counts 3 and 4).² The court held a bench trial on February 16, 2023. During the trial, C.M. testified to the incident that had occurred on the couch

² I.C. § 35-42-4-3(b).

with Riddell. After the State finished with its presentation of the evidence, it moved to dismiss Count 2, which motion the court granted. At the conclusion of the trial, the court found Riddell guilty of Counts 1 and 3, but not guilty of Count 4. The court entered judgment of conviction accordingly and sentenced Riddell to an aggregate term of thirty years, with twenty-five years executed at the Department of Correction and five years suspended to probation. This appeal ensued.

Discussion and Decision

- [7] Riddell contends that the State failed to present sufficient evidence to support his conviction for Count 1.³ Our standard of review on a claim of insufficient evidence is well settled:

For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh the evidence. *Id.* We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

Love v. State, 73 N.E.3d 693, 696 (Ind. 2017).

³ Riddell does not challenge his conviction for Count 3.

[8] To prove that Riddell committed child molesting, as a Class A felony, the State was required to demonstrate that Riddell, who was over twenty-one years of age, knowingly or intentionally performed or submitted to sexual intercourse or deviate sexual conduct with a child under fourteen years of age. Ind. Code § 35-42-4-3(a) (2014). “Deviate sexual conduct” is defined as an act involving the sex organ of one person and the mouth or anus of another person or “the penetration of the sex organ or anus of a person by an object.” I.C. § 35-31.5-2-94.⁴

[9] On appeal, Riddell contends that the State failed to prove that he “performed or submitted to deviate sexual conduct with C.M.” Appellant’s Br. at 10. In particular, he alleges that C.M.’s testimony that Riddell put his fingers in C.M. “without specifying where his fingers entered” was insufficient to show that he had penetrated her sex organ or anus. *Id.* Riddell further contends that C.M.’s “vague testimony did little to inform the factfinder as to the location where Riddell’s fingers penetrated.” *Id.* at 12. And he maintains, that the “anus and vagina are not the only natural orifices on the female body where fingers could be inserted” and that “C.M. could have been referring to Riddell putting his fingers in her mouth,” which would not constitute deviate sexual conduct. *Id.* We cannot agree.

⁴ There are multiple versions of each the statutes in the 2014 Indiana Code, with one version being effective until July 1, 2014, and another version with an effective date after July 1, 2014. Because the State alleged that Riddell had committed the offenses between May 24, 2011, and June 30, 2014, we reference the version of the statutes that was in effect until July 1, 2014.

[10] The evidence most favorable to the trial court’s judgment demonstrates that C.M. fell asleep on the couch with Riddell. She then woke up with Riddell’s hands on her thigh and “going up.” Tr. at 63. C.M. pretended to be asleep, and she next felt Riddell’s hands “being put in [her] pants.” *Id.* Riddell kissed C.M.’s ear and neck, and he whispered in her ear that he “wanted to take [her] downstairs and bend [her] over.” *Id.* at 64. C.M. then felt Riddell “put his fingers in [her]” and move them back and forth. *Id.* at 65.

[11] In other words, C.M. testified that Riddell put his hands in her pants and then “in [her].” *Id.* Based on that testimony, it was reasonable for the fact-finder to conclude that C.M.’s reference to “in [her]” while Riddell’s hands were in her pants was a reference to either C.M.’s sex organ or anus. Riddell’s contention that C.M. could have been referring to her mouth ignores C.M.’s testimony that Riddell’s hand was in her pants. We therefore hold that the State presented sufficient evidence to demonstrate that Riddell committed deviate sexual conduct, and we affirm his conviction.

[12] Affirmed.

May, J., and Felix, J., concur.