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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1292**

State of Minnesota,
Respondent,

vs.

Vincent Michael Parkhurst,
Appellant.

**Filed June 18, 2018
Affirmed
Ross, Judge**

Wilkin County District Court
File No. 84-CR-16-328

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Carl Thunem, Wilkin County Attorney, Breckenridge, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Reilly, Judge; and Klaphake,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

ROSS, Judge

Vincent Parkhurst appeals from his conviction of two counts of second-degree criminal sexual conduct for fondling the vagina and buttocks of an 11-year-old girl, arguing that the jury lacked sufficient evidence to find him guilty. Among other evidence, the jury heard Parkhurst's recorded confession acknowledging the touching and the girl's testimony describing the touching. Because the evidence justifies the guilty verdict, we affirm.

FACTS

A Wilkin County jury heard the following evidence, among other things, in the second-degree criminal sexual conduct trial of 39-year-old Vincent Parkhurst. Parkhurst arrived at his home in Breckenridge at about 11:00 p.m. after work on an evening in September 2016. Parkhurst's girlfriend, Melinda Kingbird, and their two children were also there, along with Kingbird's niece, E.K. E.K. was asleep in her second-floor bedroom.

According to Kingbird, Parkhurst got into bed with Kingbird and drank beer. He told Kingbird that he felt ill and he left the room. When he returned, he told Kingbird that he had just encountered E.K. sleepwalking and that he had laid her down to sleep.

According to E.K., E.K. woke up in her bed to the sound of Parkhurst telling her that she had been sleepwalking. She fell back to sleep and then woke up to Parkhurst lying in bed against her and telling her to scoot over. She was on her side facing away from Parkhurst when she felt him drape his leg over hers and begin touching her shoulder with his hand. He moved his hand down to her stomach. Then he moved his hand down further, beneath her underwear and over her vagina. He asked her if she "was ready." She asked

him if she could leave, and he told her to just lie there. After keeping his hand on E.K.'s vagina for several minutes, Parkhurst rose from the bed and picked E.K. up.

E.K. testified that Parkhurst carried her from the second-floor bedroom down to an empty basement bedroom. He laid her on a bed on her back, and he lay down beside her. He put his hand under E.K.'s underwear and groped her buttocks while he kissed her neck. He continued groping and kissing E.K. for up to 15 minutes. E.K. told him to stop, but he would not. Parkhurst told her he would give her \$20 if she would tell no one. She finally pushed away from him and went up to the living room couch where Kingbird and Parkhurst's children were sleeping. She lay near them. At school the next day she told her friend and a counselor what Parkhurst did. Officials took E.K. to the Wilkin County Law Enforcement Center, where she recounted what happened in a recorded interview.

Breckenridge police chief Kristopher Karlgaard testified that he went to Parkhurst's house shortly after noon. Parkhurst roused from sleep to answer the door. Chief Karlgaard advised Parkhurst of his *Miranda* rights and questioned him. Parkhurst volunteered to the chief that Kingbird had already told him that the police would want to talk with him because E.K. had accused him of fondling her. But in fact, the chief had not mentioned the allegation to Parkhurst, E.K. had not spoken to Kingbird about the allegation, and Kingbird had not learned about the allegation. Parkhurst became visibly nervous when the chief asked him about touching E.K. sexually, and although he first denied the touching, he eventually remorsefully said that he touched E.K.'s vagina over her underwear.

The jury heard other evidence and Parkhurst's attorney's explanation that E.K. had made up her allegation so that she could move back in with her grandmother. Parkhurst's

attorney also argued that Parkhurst's confession was unreliable because he had suffered brain injuries when he was younger.

The jury found Parkhurst guilty of both counts of second-degree criminal sexual assault. He appeals.

D E C I S I O N

Parkhurst argues that the state's evidence was insufficient to prove that he committed criminal sexual conduct in the second degree. The argument fails.

We review assertions of insufficient evidence to decide whether a jury could reasonably conclude that the defendant is guilty, giving due regard for the presumption of innocence and the requirement that the state must prove the charged offense beyond a reasonable doubt. *State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016). To prove Parkhurst guilty of second-degree criminal sexual conduct, the state had to establish five elements: that Parkhurst touched E.K.'s intimate parts; that he acted with a sexual or aggressive intent; that E.K. was younger than 13 years old; that Parkhurst was more than 36 months older than E.K.; and that the two had a "significant relationship." Minn. Stat. § 609.343, subds. 1(a), 1(g) (2016). Parkhurst challenges only one element; he maintains that the state did not prove that his touching included sexual or aggressive intent.

Parkhurst maintains that E.K.'s testimony was uncorroborated and incredible. The argument overlooks that "a conviction can rest on the uncorroborated testimony of a single credible witness." *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). We will defer to the jury's credibility determinations even in the face of contrary evidence. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). Parkhurst relies on three

cases to support his contention that we should reverse based on E.K.'s supposed incredibility. Those cases include issues calling into question the fairness of the criminal trial. No similar issues exist here.

In *State v. Gluff*, reversal was necessary to remedy fundamental flaws in the lineup procedure that led to the defendant's identification. 285 Minn. 148, 153, 172 N.W.2d 63, 66 (1969). In *State v. Langteau*, "nothing was discovered to link [the defendant] with the crime" and the prosecutor had urged the jury to overlook that gap by suggesting that the defendant may have been "under the influence of drugs" even though the prosecutor could cite "no support whatever in the record." 268 N.W.2d 76, 77 (Minn. 1978). And in *State v. Huss*, the supreme court faced "unusual facts" that prevented proof beyond a reasonable doubt when the child of parents who were entrenched in an acrimonious custody battle had been coaxed by her mother to accuse her father of inappropriate touching and the child gave inconsistent testimony whether any abuse occurred and "called a hug and a touch to her hair" inappropriate touching. 506 N.W.2d 290, 292–92 (Minn. 1993).

This case does not resemble *Gluff*, *Langteau*, or *Huss*. First, E.K. disclosed the abuse spontaneously the morning after it occurred. Compare *State v. Stafford*, 404 N.W.2d 918, 922 (Minn. App. 1987) (indicating that prompt disclosure bolsters a victim's testimony), review denied (Minn. June 26, 1987), with *Huss*, 506 N.W.2d at 291 (emphasizing that disclosure occurred months after alleged abuse and only at mother's prompting). Second, E.K.'s story remained unchanged from when she told her school counselor, to when she spoke at the law enforcement center, to when she testified at trial. Compare *State v. Daby*, 359 N.W.2d 730, 733 (Minn. App. 1984) (explaining that victim's

consistent accounts support conviction), *with Gluff*, 172 N.W.2d at 65 (contrasting victim's description to police of 19 to 20 year-old "college kids" and defendant's much older appearance). And third, E.K. provided a detailed description of the incident, recalling where Parkhurst's hands were, what both he and she were wearing, the smell of an alcoholic beverage, the sound of Parkhurst's voice, how she was lying in bed, and the strength of Parkhurst's grasp as he carried her to the basement. *Compare Marshall v. State*, 395 N.W.2d 362, 365 (Minn. App. 1986) (explaining that victim's emotional condition and detailed description are support for conviction), *review denied* (Minn. Dec. 17, 1986), *with State v. Jones*, 556 N.W.2d 903, 913 (Minn. 1996) (concluding that victim identification was unreliably based on "vague description" of defendant). The jury had ample ground on E.K.'s detailed account of Parkhurst's comments and actions to conclude that Parkhurst's touching resulted from his sexual ambition.

We are also satisfied that Parkhurst's nervous and apologetic confession itself could convince the jury beyond a reasonable doubt that his touching arose from his inappropriate, sexual intent. The jury could naturally reason that Parkhurst's apparent guilty conscience existed only because his motives were sexual. Parkhurst implies that his confession was not credible, but again, the jury determines credibility, and this includes the credibility of a defendant's confession. *State v. Schaeffer*, 457 N.W.2d 194, 196 (Minn. 1990).

Affirmed.