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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1454**

State of Minnesota,
Respondent,

vs.

Casey James Carlson,
Appellant.

**Filed July 17, 2023
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CR-21-13227

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

John A. Price, III, Lakeville, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Cochran, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges his conviction of fifth-degree criminal sexual conduct, arguing that the state presented insufficient evidence to prove beyond a reasonable doubt that his sexual contact with the alleged victim was nonconsensual. We affirm.

FACTS

On December 31, 2020, appellant Casey James Carlson hosted a New Year's Eve party with his roommate at their Minneapolis apartment. In 2021, respondent State of Minnesota charged Carlson with fifth-degree criminal sexual conduct based on allegations that he engaged in nonconsensual sex with L.L., a woman who attended the party.

The case proceeded to a jury trial in May 2022. The state presented testimony from the following individuals: L.L., three friends of L.L.—one of whom was Carlson's roommate, the forensic nurse who examined L.L. after the incident, and the police investigator assigned to the case. The district court also admitted several exhibits, including: body-worn camera video from L.L.'s first contact with police after the incident, a recording of the investigator's phone interview of L.L. that occurred a few days later, text message exchanges between L.L. and her friends, and text message exchanges between L.L. and Carlson. Carlson testified in his own defense.

L.L. testified as follows. On December 31, 2020, L.L. went to the New Year's Eve party hosted by Carlson and his roommate, E.N., at their Minneapolis apartment. E.N.'s girlfriend, M.V., had invited L.L. and another friend, G.J., to attend. L.L. drove herself to the party. L.L. spent most of the evening with M.V., E.N., and G.J. but engaged in "small talk" with Carlson for a short period of time. After the party wound down, L.L. decided to spend the night at the apartment because she had been drinking alcohol and did not feel safe driving or walking home by herself. G.J. was also spending the night. G.J. planned to sleep in E.N.'s room with E.N. and M.V. L.L. asked E.N. where she could sleep, and he suggested that she sleep in Carlson's room. Carlson's room was located right next to

E.N.'s room. According to L.L., E.N. told her that he had talked to Carlson about L.L. sleeping in his room before suggesting the idea to her. She "thought it was safe" because Carlson was a friend of E.N.'s. L.L. did not want anything sexual to happen with Carlson. E.N. gave L.L. an oversized T-shirt to sleep in. Before going into Carlson's room, L.L. asked M.V. if she thought that sleeping in the T-shirt "was okay or if it would give off the wrong impression." M.V. assured L.L. that it was fine.

L.L. testified that when she went into Carlson's room, he was "sitting [o]n the bed waiting for [her]." L.L. sat next to him on the bed. Carlson kissed L.L. She initially kissed him back but then "stopped and turned away." Carlson pulled L.L. on top of him, continued kissing her, and "things started to escalate." At that point, L.L. told Carlson that she was "uncomfortable with doing this," but Carlson "kept on asking [her] why." L.L. told Carlson that she was uncomfortable because Carlson had a previous relationship with L.L.'s current roommate. L.L. testified that she gave this answer because she "didn't know how else to respond or tell him that [she] wasn't comfortable." Carlson "kept on kind of pressuring [L.L.] and asking [her] why." L.L. "didn't know what else to say" and "got kind of quiet." According to L.L., Carlson "pulled [her] back" on top of him and then pushed her head down to his pelvic area for oral sex.

Afterwards, Carlson asked L.L. "how [she] wanted it." L.L. testified that she "was scared" and "didn't feel like [she] had control over [her] body, so [she] just turned around" to face the wall, and "that's when [Carlson] started penetrating [her]." L.L. clarified on cross-examination that she was lying on her stomach and facing the wall when Carlson penetrated her. L.L. testified on direct that she did not feel like she could move or resist

Carlson because her body “tends to just freeze up” in uncomfortable situations and she felt paralyzed. She explained that she “wanted to say something or move [her] body, but just felt like [she] couldn’t.” She acknowledged that she did not give Carlson “a firm no.” But, at no point did she tell Carlson that he could sexually penetrate her. After Carlson completed the act, he turned over and went to sleep. L.L. “still felt froze up” and too scared to leave. She tried to fall asleep but stayed awake. She testified that she wished that “[her] body would have let [her] get up and leave.” The next morning, Carlson asked L.L. if she wanted to have sex again. L.L. said no.

L.L. told M.V. and E.N. about the sexual encounter the next morning before she left the apartment to go to work. Later that day, she texted M.V., E.N., and G.J. the following:

I went into [Carlson’s] room last night and he like pulled me in to cuddle. I was like ok that’s normal. Then he like pulled me in to kiss me and then we just started like making out then he put me on top of him and [he] was so . . . horny like he was trying to f-ck so bad we were like dry humping. And then I was like I’m sorry I can’t . . . and then he was like what why. And I was like it’s not right it’s not me. And then he was like well looked like you were fine with it.

Like he seemed upset I didn’t [want to] f-ck. So it got real [f]-cking awkward . . . he kept asking me why like I even said I don’t feel comfortable doing that . . . But then he made another move after and we ended up f-cking and he asked me this morning to again and I was like NO.

L.L. also told her friends by text that Carlson had pulled her head down to give him oral sex. L.L. testified that she texted her friends because she “wasn’t sure if it was rape” and she “wanted to check in with them and make sure that [she] wasn’t overreacting.” L.L. testified that she came to believe that the incident was a sexual assault when she “noticed

how [her] body felt afterwards.” For example, she was unable to drive or go to crowded places.

A few days later, Carlson texted L.L. “to apologize for what happened the other night” and to ask L.L. if she wanted to talk about it. L.L. agreed to talk. That evening, over the phone, Carlson apologized to L.L. and told her that he knew how she felt because he had been raped before. After that conversation, Carlson reached out to L.L. again to ask if it would be helpful to talk in person. L.L. declined, told Carlson that he “obviously didn’t learn what consent is,” and told Carlson not to try to talk to her again. Carlson responded: “I promise you this is weighing on me and it will for a long time.” He added, “I understand that you don’t want to hear from me but if you [would] like to talk if for any other reason just to tell me to my face how much of a piece of sh-t I am, you can do that too.” L.L. testified that she did not initially report the incident to police because she “wasn’t for sure positive if it was rape” and was too scared to do so, but that she later decided to make a report.

The jury also heard testimony from L.L.’s friends: M.V., E.N., and G.J. M.V. testified first. Her description of the party and the events that followed was consistent with L.L.’s testimony. M.V. explained that she had asked E.N., who was her boyfriend and Carlson’s roommate, to work out a sleeping arrangement for L.L. She described that L.L. and G.J. wanted to spend the night because they had been drinking. M.V. had already promised G.J. a spot in the same bed as M.V. and E.N., and M.V. did not think there was enough room in the bed for four people. E.N. talked to Carlson, who agreed to let L.L. sleep in his bed. M.V. testified that, when she learned that L.L. and Carlson ended up

having sex, she “immediately knew it was rape.” M.V. also testified that she discussed the incident with Carlson after she learned about it from L.L. According to M.V., Carlson said that the sex “was consensual” and then added, “[L.L.] was wearing a t-shirt, what did you expect?” Conversely, M.V. recounted that L.L. was “distraught” the day after the New Year’s Eve party and “lifeless” in the following days. M.V. also testified that L.L. “called out of work multiple times because she was too scared to leave her house.” On January 10, L.L. texted M.V. that she “felt like the whole world was just like crumbling and she was scared of herself.” M.V. then called the police and asked them to check on L.L.

E.N. testified next. In addition to details consistent with the testimony of L.L. and M.V., E.N. described the conversation he had with Carlson about sleeping arrangements. E.N. testified that when he asked Carlson if L.L. could sleep in his bed, Carlson “got overly excited” and agreed to the arrangement. E.N. testified that he made clear to Carlson that L.L. was “really not trying to do anything”—in other words, “not trying to hook up” or have sex. He also told Carlson that L.L. was extremely tired and just wanted to sleep. Carlson said that was fine. After the incident, E.N. had multiple conversations with Carlson in which E.N. told Carlson that he should apologize to L.L. In response, Carlson “acknowledged that he had messed up.” E.N. also recounted that he sent Carlson a text message telling Carlson that it was “[his] responsibility to recognize how [L.L.] was feeling [on the night of the New Year’s Eve party] and respond correctly.” Carlson responded, “I understand, and I will own up to it.”

G.J. also testified about what happened at the New Year’s Eve party. She testified that she saw Carlson talking to L.L., and she assumed that Carlson was interested in L.L.

because L.L. was single. G.J. also testified that, after they decided that L.L. would sleep in Carlson's bedroom, L.L. "wanted to make sure that it was clear that she was not interested in doing anything with [Carlson]." And G.J. testified that E.N. had a conversation with Carlson "emphasizing that [L.L.] was not interested in doing anything that night." G.J. was "very surprised" to learn from L.L.'s text messages that L.L. and Carlson had sex, because L.L. "had been so adamant that that was not what she was interested in."

The jury also heard testimony from the police investigator who handled the case. He explained that another officer was dispatched to check on L.L. after M.V. called the police on January 10. The jury viewed video of that encounter that was recorded by the officer's body-worn camera. The video shows L.L. telling the officer that she had been raped. L.L. also acknowledged that she had been trying to harm herself before the police arrived by cutting her arm with a razor blade. L.L. agreed to go to the hospital for a sexual-assault examination. A few days later, on January 15, the investigator interviewed L.L. over the phone. A recording of that interview was played for the jury. L.L.'s statement to the investigator was consistent with her trial testimony.

The forensic nurse who examined L.L. at the hospital also testified for the state. The nurse recounted L.L.'s description of the sexual encounter at the time of the examination, which was mostly consistent with L.L.'s trial testimony.¹ The nurse

¹ There was a discrepancy regarding condom use. L.L. told the nurse that Carlson had used a condom, but L.L. testified at trial on cross-examination that she did not recall whether Carlson used a condom. But L.L.'s description of the sex acts and her body freezing during the encounter were consistent with her trial testimony.

explained that neurobiological responses to trauma vary and can include a “fight or flight response” or a response where “the patient just freezes.” She testified that, in her experience as a forensic nurse, she had seen “the freezing response” frequently, and that delayed reporting is common among victims of sexual assault.

Carlson then testified in his own defense, asserting that the sexual encounter with L.L. was consensual. His description of what happened on the night of the party differed from L.L.’s version of events. Carlson testified that he and L.L. played drinking games together and “interacted several times” before L.L. and “the rest of the group . . . figured out where they wanted to sleep.” He testified that, at about 12:30 a.m., E.N. came into the kitchen and told him that L.L. wanted to sleep in his room. Carlson “thought [that] was reasonable because [they] had been sort of flirty and were talking throughout the night.” Carlson testified that, when L.L. later entered his room, she was wearing a T-shirt and tight black jeans and that “she removed the jeans . . . in front of [him].” According to Carlson, the two then spent about fifteen minutes talking and listening to music while cuddling on the bed. After that, they put on Netflix and started kissing.

Carlson testified that L.L. “sort of moved on top of [him].” At that point, L.L. told Carlson that she felt bad for her roommate, Carlson’s ex-girlfriend. Carlson said something like, “we’re not together anymore . . . so it’s fine with me if it’s fine with you.” Carlson then asked L.L. “if she wanted to have sex, and she said yeah.” After that, L.L. gave Carlson oral sex for a couple of minutes. Carlson asked L.L. again if she wanted to have sex, and she said yes. Carlson asked L.L. if he should get a condom, and she said yes. While Carlson was putting on a condom, he asked L.L. “how do you want it, meaning what

position do you want.” L.L. removed her underwear and “sort of turned around and got on her hands and knees.” Carlson and L.L. then had sex for about ten minutes. Carlson testified that L.L. did not seem uncomfortable having sex with him during that time.

Carlson also testified that he had a couple of conversations with L.L. over the phone after their sexual encounter. During the first conversation, Carlson apologized and said he was “sorry that [L.L. was] not feeling good about what happened, and . . . assured her that . . . [he] didn’t mean to pressure her in any way.” According to Carlson, after that conversation, E.N. told Carlson that L.L. had informed him “that she wanted to have sex with you,” but that L.L. and M.V. “just want to hear you apologize with no excuses, and then this will be over.” Carlson therefore had a second phone call with L.L. in which he apologized to L.L. with “no excuses.” Carlson also testified that E.N.’s testimony regarding their conversation about sleeping arrangements was false.

The jury found Carlson guilty of fifth-degree criminal sexual conduct. The district court imposed a 365-day sentence, stayed the sentence, and ordered Carlson to serve 90 days in the Hennepin County Workhouse. Carlson appeals.

DECISION

Carlson challenges the sufficiency of the evidence to sustain his conviction. We evaluate the sufficiency of direct evidence presented to support a conviction by conducting “a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (quotation omitted). In doing so, “[w]e must assume [that] the jury believed the state’s witnesses and

disbelieved any evidence to the contrary.” *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). “Assessing witness credibility and the weight given to witness testimony is exclusively the province of the jury.” *State v. Pendleton*, 759 N.W.2d 900, 909 (Minn. 2009). “[W]e will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012).

To sustain a conviction in a criminal case, the state must prove every element of the charged offense beyond a reasonable doubt. *State v. Culver*, 941 N.W.2d 134, 142 (Minn. 2020). Here, for the jury to find Carlson guilty of fifth-degree criminal sexual conduct, the state had to prove beyond a reasonable doubt that Carlson “engage[d] in nonconsensual sexual contact.” Minn. Stat. § 609.3451, subd. 1(1) (2020). “Sexual contact” includes “the intentional touching by the actor of the complainant’s intimate parts.” *Id.*; Minn. Stat. § 609.341, subd. 11(i) (2020). Minnesota law defines “consent” as “words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor.” Minn. Stat. § 609.341, subd. 4(a) (2020). “Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.” *Id.* And “[c]orroboration of the victim’s testimony is not required to show lack of consent.” *Id.*, subd. 4(c) (2020).

Carlson does not deny that the evidence at trial established that he intentionally engaged in “sexual contact” with L.L. within the meaning of the statute. Instead, he focuses on the consent element of the crime. He argues that the evidence presented by the state

was insufficient to prove beyond a reasonable doubt that the sexual contact was nonconsensual.

To support this argument, Carlson asserts that L.L. did not physically resist his sexual advances, that L.L. was not physically injured, and that L.L. did not verbally say no, physically shake her head, or “manipulate her body in any manner indicative of nonconsent” when Carlson asked her how she “want[ed] it.” Carlson also suggests that L.L. demonstrated consent by “actively participating in the sexual acts” of kissing, “dry humping,” and oral sex. And Carlson argues that although L.L. “testified that she ‘froze’ and did not in any way actively participate in the vaginal sex,” a person can feel pressured to participate in a sexual act but still “freely consent to having vaginal sex in a passive manner.” Carlson emphasizes L.L.’s acknowledgement “that there was no way for [Carlson] to have known that [L.L.] was . . . ‘frozen’ under the circumstances without her telling him.” Carlson also emphasizes that L.L. “vacillated on” whether or not she had consented to sexual intercourse with Carlson after the encounter and that a friend, not L.L. herself, ultimately reported the alleged assault. For these reasons, Carlson argues that the record shows L.L. later regretted her decision to have sex with Carlson, but that “no reasonable jury could reasonably have found that [L.L.] did not consent to vaginal sex.” We are not persuaded.

Based on our thorough review of the record, we conclude that the state presented sufficient evidence, viewed in the light most favorable to the conviction, to prove beyond a reasonable doubt that Carlson engaged in nonconsensual sexual contact with L.L. Assuming, as we must, that the jury believed L.L.’s testimony and disbelieved Carlson’s

testimony to the contrary, *see Caldwell*, 803 N.W.2d at 384, the evidence shows that L.L. did not consent to sexual intercourse with Carlson as defined by Minn. Stat. § 609.341, subd. 4(a). L.L. testified that she told Carlson she was “uncomfortable with doing this,” but Carlson continued to press her. L.L. testified that, even though she had expressed her discomfort, Carlson pulled her back on top of him and asked her “how [she] wanted it.” L.L. testified that she felt scared and “didn’t feel like [she] had control over [her] body, so [she] just turned around” to face the wall, and “that’s when [Carlson] started penetrating [her].” And L.L. testified that she did not tell Carlson that he could penetrate her, although she acknowledged that she did not give him “a firm no.” According to this testimony, L.L. did not volunteer any words or take any “overt actions” that would have indicated “a freely given present agreement to perform a particular sexual act”—namely, intercourse—with Carlson. Minn. Stat. § 609.341, subd. 4(a). Therefore, the jury could reasonably conclude beyond a reasonable doubt that Carlson was guilty of engaging in nonconsensual sexual contact. *Ortega*, 813 N.W.2d at 100.

In addition, while corroboration of a victim’s testimony is not required to prove the absence of consent, L.L.’s testimony was corroborated in several ways. *See* Minn. Stat. § 609.341, subd. 4(c) (providing that “[c]orroboration of the victim’s testimony is not required to show lack of consent”). First, L.L.’s testimony was corroborated by her prior consistent statements to her friends, to police, and to the forensic nurse. *See State v. Lau*, 409 N.W.2d 275, 277 (Minn. App. 1987) (noting that prior consistent statements by a victim of sexual assault, along with her appearance immediately following the incident, corroborated the victim’s testimony); *State v. Ross*, 451 N.W.2d 231, 237 (Minn. App.

1990) (holding that the evidence was sufficient to sustain criminal-sexual-conduct convictions where the victim's testimony was corroborated, in part, by her out-of-court statements), *rev. denied* (Minn. Apr. 13, 1990). Second, L.L.'s testimony was corroborated by Carlson's own text messages apologizing for his actions on the night of the party and by E.N.'s testimony that he explicitly told Carlson earlier that night that L.L. was not interested in having sex. Finally, the evidence of L.L.'s deteriorating emotional state following the sexual encounter with Carlson also corroborated L.L.'s version of events. *See State v. Wright*, 679 N.W.2d 186, 190 (Minn. App. 2004) (concluding that testimony from others about a victim's emotional state after an alleged sexual assault corroborated the victim's claim that she had been assaulted), *rev. denied* (Minn. June 29, 2004). In sum, we conclude that L.L.'s testimony and the additional corroborating evidence presented by the state, viewed in the light most favorable to the conviction, is sufficient to sustain the jury's verdict.

We are not persuaded otherwise by Carlson's arguments to the contrary. First, Carlson's emphasis on L.L.'s lack of physical resistance, her participation in certain sexual acts prior to the act in question, and the absence of any physical injury is misplaced. Minnesota law is clear that "[c]onsent does not mean . . . that the complainant failed to resist a particular sexual act." Minn. Stat. § 609.341, subd. 4(a). Thus, L.L.'s failure to resist Carlson when he penetrated her from behind does not show that she consented. And even if L.L. engaged in consensual kissing or oral sex earlier, any consent to those acts does not necessarily extend to consent to engage in sexual intercourse. *See id.* In addition, Carlson's focus on the absence of any physical injury is not persuasive, as physical injury

is not an element of fifth-degree criminal sexual conduct. *See* Minn. Stat. § 609.3451, subd. 1(1) (defining fifth-degree criminal sexual conduct).

To argue otherwise, Carlson relies on *In re A.A.M.* for the proposition that “nonconsent . . . mean[s] a situation in which a complainant has been physically attacked or has emerged from the incident so shaken or traumatized that no reasonable person would believe the complainant desired that particular sexual contact.” 684 N.W.2d 925, 928 (Minn. App. 2004) (citing *State v. DeBaere*, 356 N.W.2d 301, 304 (Minn. 1984)), *rev. denied* (Minn. Oct. 27, 2004). But Carlson fails to acknowledge that the supreme court case that *In re A.A.M.* relied on for its description of the meaning of “nonconsent,” *DeBaere*, addressed a situation in which there was affirmative evidence of personal injury to the victim and evidence of the victim’s distraught condition. *DeBaere*, 356 N.W.2d at 304. Thus, the definitional language in *In re A.A.M.* must be read in that context. And, importantly, neither *In re A.A.M.* nor *DeBaere* suggest that the above-quoted description is the *only* definition of nonconsent.² In other words, the fact that physical injury *may* constitute proof of nonconsent does not narrow the broader statutory definition of “consent” to *require* proof of physical injury. *See State v. Sanschagrin*, 952 N.W.2d 620, 625 (Minn. 2020) (“When a word is defined in a statute, we are guided by the definition provided by the Legislature.” (quotation omitted)); *State v. Schmid*, 859 N.W.2d 816, 820

² Notably, *DeBaere* was decided in 1984, when the statutory definition of “consent” in the sex-crimes context was somewhat different. *See* Minn. Stat. § 609.341, subd. 4 (1992) (defining “consent” as “a voluntary uncoerced manifestation of a present agreement to perform a particular sexual act with the actor”); 1994 Minn. Laws ch. 636, art. 2, § 30, at 2204 (revising the statutory definition of “consent” to reflect the current language).

(Minn. 2015) (“We do not turn to the common law definition of a word if the statute provides its own definition.”). And, regardless, the evidence of L.L.’s emotional condition in the days after the sexual encounter arguably satisfies the second part of the definition of “nonconsent” stated in *In re A.A.M.*

Second, Carlson’s emphasis on L.L.’s failure to “verbally say no, physically shake her head, or manipulate her body in any manner indicative of nonconsent” does not change our conclusion regarding the sufficiency of the evidence. While these facts may suggest that there was some ambiguity during the sexual encounter, ambiguity does not equal consent under the law. Instead, the law defines consent to mean “words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor.” Minn. Stat. § 609.341, subd. 4(a). And, although L.L. did not tell Carlson “no,” she *did* tell him that she was “uncomfortable with doing this.” Thus, the jury could reasonably conclude that L.L.’s words did not indicate consent. The jury could also reasonably conclude that L.L.’s action of “turn[ing] around” to face the wall did not constitute an “overt action . . . indicating a freely given present agreement” to participate in sexual intercourse, particularly given her earlier statement that she was uncomfortable with the situation. We are not convinced by Carlson’s argument to the contrary.

Likewise, Carlson’s arguments that “one can freely consent to having vaginal sex in a passive manner” despite feeling “pressured,” and that there was no way for Carlson to have known that L.L. was “frozen,” are similarly unpersuasive. Again, the statutory definition of consent requires “words or overt actions,” *not* passivity or inactivity. *Id.* Similarly, our state law is clear that “consent” *does not* mean “that the complainant failed

to resist a particular sexual act.” *Id.* And Carlson cites no legal authority that suggests that knowledge of a complainant’s lack of consent is required to prove fifth-degree criminal sexual conduct. Further, as the state points out, the cases that Carlson references to support the argument that “[a] complainant can feel pressured to participate in a sexual act but still make a voluntary, consensual decision to participate in the act” are inapposite because they analyze consent in the context of Fourth Amendment due process rights, not consent as defined by statute in the context of criminal sexual conduct. *See Schneckloth v. Bustamonte*, 412 U.S. 218, 248 (1973) (holding that, under the Fourth and Fourteenth Amendments, a subject’s consent to a search must be “voluntarily given”); *State v. Brooks*, 838 N.W.2d 563, 571-72 (Minn. 2013) (considering whether a defendant voluntarily consented to blood and urine tests under Minnesota’s implied-consent law after he was arrested for driving while impaired).

Finally, the fact that L.L. initially “vacillated on the issue of whether or not” she had been sexually assaulted does not require a different outcome. Though police were eventually contacted by M.V. rather than by L.L. herself, L.L. testified that she had also decided to report the incident to police. The fact that it took her some time to come to the conclusion that she had been sexually assaulted does not change the facts relevant to whether or not she consented to sexual intercourse. And whether L.L. believed that the sexual encounter amounted to a sexual assault does not dictate whether the elements of the crime of fifth-degree criminal sexual conduct were met.

In sum, we conclude that the state’s evidence was sufficient to prove beyond a reasonable doubt that Carlson was guilty of fifth-degree criminal sexual conduct because

the jury could reasonably conclude that Carlson's sexual contact with L.L. was nonconsensual.

Affirmed.