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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1651**

State of Minnesota,
Respondent,

vs.

Coedy Lonzelle Willis,
Appellant.

**Filed September 23, 2024
Affirmed
Harris, Judge**

Hennepin County District Court
File No. 27-CR-21-11481

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

Mary F. Moriarty, Hennepin County Attorney, Asha Jamison-Moreland, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Adam Lozeau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Smith, Tracy M., Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant challenges his conviction of first-degree criminal sexual conduct, arguing that the evidence was insufficient to allow the district court to find him guilty beyond a reasonable doubt because there were significant reasons to doubt the victim's credibility.

Alternatively, appellant argues that his conviction must be reversed and the matter remanded for a new trial because the district court (1) committed a structural error by relying on the complaint, which was not admitted as evidence, to find an essential element of the offenses; (2) erred by finding appellant guilty of violating a statute he was not charged with; and (3) erred by finding appellant guilty of count 3 without finding that appellant committed any act during the time period charged in the complaint. Because there is sufficient evidence to support the verdict and any errors do not require reversal, we affirm.

FACTS

In June 2021, respondent State of Minnesota charged appellant Coedy Lonzelle Willis with three counts of criminal sexual conduct for sexually assaulting his eight-year-old relative (M.J.). Willis waived his right to a jury trial, and the parties proceeded with a court trial on stipulated evidence. The parties agreed that if the district court found Willis guilty of count 1, the state would argue for an executed sentence of 144 months, Willis would not be permitted to argue for probation, and counts 2 and 3 would be dismissed. If Willis was found guilty of only count 2 or 3 or both, there was no agreement as to sentencing.

The parties stipulated to the following exhibits: (1) full copy of police reports, (2) video of interview with reporting juvenile, (3) transcript of video interview with reporting juvenile, (4) forensic interview report, (5) child protection report, (6) medical reports, and (7) audio of Willis's interview with police. The parties also agreed that the district court could consider the state's notice of intent to offer expert testimony and could

review the complaint to understand the charges and what statutes Willis was charged with violating.

The parties submitted written closing arguments and the district court took the matter under advisement. The district court announced general guilty verdicts in open court and then issued a written order finding Willis guilty on all counts. At sentencing, the district court dismissed counts 2 and 3 per the parties' agreement. The district court convicted Willis of count 1, first-degree criminal sexual conduct, and sentenced him to 144 months in prison. Willis appeals.

DECISION

I. The evidence is sufficient to support Willis's conviction of first-degree criminal sexual conduct.

Willis argues that the evidence does not support his conviction of first-degree criminal sexual conduct because there are substantial reasons to doubt M.J.'s credibility. Willis argues that M.J.'s testimony was inconsistent on crucial points, there was a lack of physical evidence of sexual abuse, M.J.'s statements were not given under oath, and the allegations made against Willis arose in the context of a custody dispute. He further argues that M.J. made allegations against several other people, and the evidence shows suggestive circumstances that could have contributed to M.J. making untrue or mistaken accusations. We address each argument in turn.

To convict Willis of first-degree criminal sexual conduct, the state was required to prove beyond a reasonable doubt that (1) Willis engaged in an intentional act of sexual conduct, (2) Willis committed the act with sexual or aggressive intent, (3) at the time of

the act, the victim was under the age of 13, (4) at the time of the act, Willis was more than 36 months older than the victim, and (5) the act took place between January 2015 and December 2018 in Hennepin County. *See* Minn. Stat. § 609.342, subd. 1(a) (2014).

“When evaluating the sufficiency of the evidence, appellate courts carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). “The evidence must be viewed in the light most favorable to the verdict, and it must be assumed that the fact-finder disbelieved any evidence that conflicted with the verdict.” *Id.* “The verdict will not be overturned if the fact-finder, upon application of the presumption of innocence and the State’s burden of proving an offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense.” *Id.* “[Appellate courts] use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

A. M.J.’s Statements

Willis argues that M.J.’s statements were not credible because they were inconsistent on crucial points. Specifically, Willis notes that (1) M.J. told mother and the forensic interviewer that the abuse occurred when she was four years old, but told the doctor that it first happened a year ago, (2) M.J.’s statements to the doctor and the forensic interviewer about where Willis touched her and whether penetration occurred were inconsistent with each other, (3) M.J. told the forensic interviewer that the last incident happened at Willis’s

house, but later stated it happened at her grandmother's house, and (4) earlier in the same year that she reported the abuse, M.J. told her mother that no one had done anything inappropriate to her. The district court considered these statements and determined there were "no notable inconsistencies in Juvenile's accounts of [Willis's] conduct between her tellings," and "[h]er uncertainty about how old she was when the acts started and ended does not take from her credibility given her still young age when she reported."

The district court determined M.J. consistently stated that Willis would assure her it was the last time, gave her money for the acts, Willis removed his and her clothing, and Willis made sure they were alone. The district court also determined that M.J. consistently supplemented the details of Willis's conduct in each statement.

Willis relies on *State v. Huss*, 506 N.W.2d 290 (Minn. 1993), to argue that there was insufficient evidence to find him guilty beyond a reasonable doubt because there are multiple reasons to doubt M.J.'s credibility. In *Huss*, the supreme court concluded that there was insufficient evidence to support Huss's conviction for second-degree criminal sexual conduct involving his three-year-old daughter because of the unusual facts of the case, including that "the child's testimony was contradictory as to whether any abuse occurred at all," and the child was exposed to a highly suggestive book on sexual abuse. *Id.* at 292-93.

Here, unlike *Huss*, eight-year-old M.J. consistently reported that Willis assaulted her. M.J. described details of the assaults to her mother, the forensic interviewer, and the physician. Any uncertainty about how old she was when the acts started and ended is reasonable given her young age. The district court as the fact-finder reasonably determined

that the disclosures were credible, despite the minimal inconsistencies, and found Willis guilty beyond a reasonable doubt. *See State v. Mosby*, 450 N.W.2d 629, 634 (Minn. App. 1990) (stating that inconsistencies in testimony are a sign of human fallibility and do not prove testimony is false, especially when the testimony is about a traumatic event).

B. Physical Evidence

Willis argues that there is reason to doubt M.J.’s credibility because the statements were not corroborated by physical evidence. Willis argues that, even though the allegations arose after mother observed a bump on M.J.’s vaginal area, the subsequent medical exam was normal. Therefore, Willis asserts, even though the doctor could not rule out sexual abuse, we should conclude the evidence was insufficient to find Willis guilty beyond a reasonable doubt because there was a lack of physical evidence corroborating M.J.’s statements. However, testimony of a single credible witness can provide sufficient evidence to support a conviction, and the district court found M.J. credible. *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004). And in a prosecution for criminal sexual conduct, “the testimony of a victim need not be corroborated.” Minn. Stat. § 609.347, subd. 1 (2022). Here, the medical exam was normal, but did not rule out sexual abuse or prior penetration. The district court reasonably determined there was evidence sufficient to find Willis guilty beyond a reasonable doubt, despite the lack of physical evidence.

C. M.J.’s Statements Not Under Oath

Willis argues that M.J.’s statements are not credible because they were not given under oath. Willis waived his right to a jury trial and agreed that the district court could decide the case based on the stipulated evidence. “Although prior sworn statements—

made under oath and subject to cross-examination—are generally more reliable than unsworn statements, [the supreme court has] noted that a totality of the circumstances approach should be used in evaluating the trustworthiness of the statement regardless of whether the statement was sworn or unsworn.” *State v. Hallmark*, 927 N.W.2d 281, 293 (Minn. 2019) (citing *State v. Stallings*, 478 N.W.2d 491, 495 (Minn. 1991)). Here, the district court reasonably considered the totality of the circumstances, including M.J.’s demeanor, and content and context of her descriptions, and determined that M.J.’s statements were credible, even though M.J. did not testify under oath.

D. Custody Dispute

Willis argues that the evidence is insufficient because the allegations against him arose in the context of custody dispute. Willis questions mother’s credibility because she made a prior accusation of sexual abuse against him during the custody dispute, but later denied doing so. Here, the district court determined that “[m]otivation to fabricate related to the custody dispute [was] not apparent.” The district court noted that Willis “[was] not the person in the custody dispute, nor was he the only male person identified as living in the home where the abuse occurred.” And despite the allegation that, during the custody dispute, mother previously alleged that Willis assaulted M.J., the district court reviewed the evidence and found M.J. credible. In contrast, in *Huss*, the allegations of abuse were against the child’s father, and the mother exposed the child to suggestive material in an effort to induce the child to reveal the sexual abuse and the mother did not want the child to visit the father before any allegations of abuse were made. Thus, the supreme court concluded that the “existence of the visitation dispute [was] relevant to [the] overall

evidence in the case.” 506 N.W.2d at 293 n.3. Given the distinguishable facts of the custody dispute at issue here, it is not unreasonable for the fact-finder to give little weight to the custody dispute.

E. M.J.’s Allegations Against Other People

Willis argues M.J.’s statements were not credible because she initially disclosed that other individuals touched her inappropriately. In *Huss*, the child testified that both her mother and father touched her in a bad way, and that six people had touched her, including a playmate. *Id.* at 292. The child also was not able to identify appellant in the courtroom, and testified that her father was bald and blind, although he was neither. *Id.* In contrast, here, although M.J. initially disclosed that a family member “James” touched her inappropriately, M.J. also consistently stated that Willis committed the acts against her and described the incidents in detail. Therefore, a factfinder could reasonably find M.J.’s statements credible.

F. Suggestive Circumstances

Willis argues there are reasons to doubt M.J.’s credibility because there were suggestive circumstances, including the child-protection investigator asking leading questions, the forensic interviewer pointing to Willis’s name on a board during the interview, and the mother telling M.J. about her own experience of being sexually assaulted. The district court considered the evidence and determined that M.J.’s credibility was “bolstered by her demeanor in her forensic interviews” and “[neither] of her conversations appeared to be rehearsed statements coached by a third party.” The mother additionally reported that she did not provide any details of how she was assaulted. This

is in contrast to *Huss*, in which the mother repeatedly exposed the child to a suggestive book on sexual abuse, which was a key factor in the case. *Id.* at 292 (“[G]iven this contradictory testimony, we might not be persuaded to reverse absent the repeated use of a highly suggestive book on sexual abuse.”). Therefore, it is not unreasonable for a factfinder to give less weight to the circumstances and more weight to M.J.’s statements about the abuse.

In sum, the reasons raised by Willis to doubt M.J.’s credibility do not amount to the “unusual facts” described in *Huss* to require corroboration. 506 N.W.2d at 293 (concluding that, based on these unusual facts, the state did not meet its burden of proof). When the evidence is viewed in the light most favorable to the guilty verdict, it is sufficient to support Willis’s first-degree criminal sexual conduct convictions. Therefore, we conclude that the evidence is sufficient to support Willis’s first-degree criminal sexual conduct conviction.

II. The errors alleged by Willis do not require reversal and a new trial.

Alternatively, Willis argues that the district court committed three errors in reaching its verdict that require this matter to be reversed and remanded.

First, Willis argues that the district court committed structural error because the district court found an essential element of each offense based on the complaint, which was not admitted into evidence, and thus violated his right to an impartial judge. We conclude that the district court’s reliance on the complaint was not structural error and Willis is not entitled to automatic reversal. “An impartial trial requires that conclusion reached by the trier of fact be based upon the facts in evidence and prohibits the trier of fact from reaching conclusions based on evidence sought or obtained beyond that adduced in court.” *State v.*

Dorsey, 701 N.W.2d 238, 249-50 (Minn. 2005). In *Dorsey*, the supreme court held that the district court's reliance on information discovered during an independent factual investigation was a structural error that deprived the defendant of his constitutional right to a fair trial. 701 N.W.2d at 249. Here, the district court used the complaint to establish that Willis was more than 36 months older than M.J. Although the complaint was not part of the stipulated evidence, the parties agreed that the district court could view it when deciding the case. Accordingly, the district court did not consider evidence "beyond that adduced in court."

Additionally, Willis's date of birth was supported by other stipulated evidence in the record, including the police reports and his recorded interview with police, so it is unlikely that the district court's reliance on the complaint would cause the public to seriously question the fairness and integrity of the judicial system. See *State v. Lopez*, 988 N.W.2d 107, 120 (Minn. 2023) (outlining factors appellate courts must consider when determining whether perceived judicial bias requires reversal). And even if the district court's reliance on the complaint was structural error, Willis did not preserve the issue at trial by objecting or filing a posttrial motion. See *Pulczynski v. State*, 972 N.W.2d 347, 359 n.9 (Minn. 2022) (suggesting that it was an open question whether all unpreserved structural errors require automatic reversal).

Second, Willis argues that the district court erred as a matter of law by finding him guilty of violating Minnesota Statutes section 609.342, subdivision 1a(e) (Supp. 2021), a statute he was not charged with violating and that did not exist at the time of the alleged offense. We conclude that any error was a harmless clerical mistake.

“Clerical mistakes in a judgment, order, or in the record arising from oversight or omission may be corrected by the court at any time, or after notice if ordered by the court.” Minn. R. Crim. P. 27.03, subd. 10. A clerical mistake is “ordinarily apparent upon the face of the record and capable of being corrected by reference to the record only.” *State v. Walsh*, 546 N.W.2d 442, 443 (Minn. App. 1990); *see State v. Verdon*, 727 N.W.2d 418, 420 (Minn. App. 2007) (applying this aspect of *Walsh* in a criminal case). A clerical mistake “cannot reasonably be attributed to the exercise of judicial consideration or discretion.” *State v. Pflepsen*, 590 N.W.2d 759, 768 n.4 (Minn. 1999).

It is apparent on the face of the record that the district court’s written verdict contains a clerical mistake and Willis was not convicted of a crime not charged in the complaint. In its written verdict, the district court found Willis guilty of first-degree criminal sexual conduct, in violation of Minnesota Statute Section 609.342, subdivision 1a(e). However, Willis was charged with and convicted of violating Minnesota Statutes section 609.342, subdivision 1(a). In its written order, the district court properly analyzed whether the victim was under the age of 13 according to the version of the statute charged in the complaint. Minnesota Statutes section 609.342 was amended in 2021. 2021 Minn. Laws ch.11, art. 4, § 16, at 2038-40. The amendment, effective September 1, 2021, changed the age of the victim from 13 to 14 and renumbered the relevant subdivision of section 609.342 from 1(a) to 1a(e). Because the district court considered whether the victim was under the age of 13, we are satisfied that the district court analyzed the charged statute, despite referring to the incorrect subdivision in its written order. Additionally, the district court announced its verdicts in open court and

stated it “will be entering guilty verdicts.” The Minnesota Court Information System (MNCIS) and the warrant of commitment reflect that Willis was convicted of the charged statute, Minnesota Statutes section 609.342, subdivision 1(a).¹

Third, Willis argues that the district court found him guilty of count 3, second-degree criminal sexual conduct, Minn. Stat. § 609.343, subd. 1(a) (2014), without finding that he committed the act within the charged time period, between August 2020 and June 11, 2021. Although the district court found Willis guilty of second-degree criminal sexual conduct, the district court did not adjudicate his guilt for that offense or impose a sentence. Thus, the second-degree criminal sexual conduct conviction is not ripe for a sufficiency review because there is no judgment or convictions. *See State v. Ashland*, 287 N.W.2d 649, 650 (Minn. 1979) (declining to consider insufficiency-of-the-evidence claims on convictions for which the district court did not formally adjudicate the defendant guilty and did not impose a sentence).

In sum, we conclude that the alleged errors do not require this court to reverse and remand for a new trial because the errors are not structural, and the factual findings are supported by the record.

Affirmed.

¹ Because the warrant of commitment and MNCIS reflect that Willis was convicted of violating the charged statute, we do not remand for the district court to correct the clerical error in the written verdict. “Clerical mistakes in a judgment, order, or in the record arising from oversight or omission may be corrected by the court at any time, or after notice if ordered by the court.” Minn. R. Crim. P. 27.03, subd. 10.