

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI
CIRCUIT DIVISION V

STATE OF MISSOURI,)
vs.)
) Case No.
)
GC, Defendant.)
)
)

JUDGMENT

The Court heard evidence on November 2nd and November 8th, 2017. The State presented the eyewitness, a sister and several police officers. The alleged victim nor her mother testified at the trial. There was no DNA evidence found in this case even though several samples were submitted to the lab.

The State did play a tape of the alleged victim and the defendant talking and playing games about 5 hours before the eyewitness walked into the girl’s bedroom. On the tape, the victim says, “Oh that hurts” and the defendant said, “stretch out your legs.” The alleged victim does not say what hurt and never told the defendant to stop doing anything if he did hurt the victim. In other words, if the defendant was rubbing the victim’s vagina, you would assume that she would tell the defendant to stop if that hurt the victim. Therefore, the Court finds this evidence to not be sufficient to show grooming of the victim by the defendant or sexual contact of the victim by the defendant.

The State also relies on a series of behavior which leads to the conclusion that sexual contact occurred between victim and defendant, such as the following: The defendant’s reaction when arrested, none; the defendant profusely sweating before and after being arrested; and the alleged victim has changed her behavior since the incident. The first two are really no evidence about the defendant’s guilt. The last issue deals with behaviors of a victim who did not testify at trial; a victim who never disclosed. The witness can only suppose that sexual abuse was the reason for the change of behavior in the victim. However, this is not enough to find the defendant guilty beyond a reasonable doubt.

This leaves the eyewitness. The Court fully believes that witness J. saw something that frightened her on May 2nd, and that J. fully believed what she saw was sexual in nature between victim and defendant. As we know, eyewitness testimony is not as reliable as society or the courts believe. There was no outcry by the victim when J. saw the victim in the bedroom. J. said she had a look as if being asleep.

The victim made no disclosure to her mother, police, Children's Division or at the CAC. The victim's sister testified that the defendant never said anything inappropriate to the victim or herself. The sister said she saw defendant smack the victim on the bottom only once or very few times over the years the defendant came to the house.

In the end, the State has the duty to prove the defendant guilty beyond a reasonable doubt. This burden is a high burden as it should be. All lawyers were taught in law school that it is better to let 9 guilty people go free, than to convict one innocent person. This Court is not saying there is no evidence, just that when all the evidence is considered, there is not sufficient evidence to prove the defendant guilty beyond a reasonable doubt. Therefore, defendant is found not guilty in this case.

SO ORDERED.

12/1/2017



DATED

CALVIN R. HOLDEN
CIRCUIT COURT JUDGE, DIV 5