

Affirmed and Opinion filed February 1, 2001.



In The

Fourteenth Court of Appeals

NO. 14-98-01235-CR

JAMES ARTHUR WILLIAMS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 185th District Court
Harris County, Texas
Trial Court Cause No. 747, 672**

OPINION

Over his plea of not guilty, a Harris County jury found appellant, James Arthur Williams, guilty of aggravated sexual assault. After entering a plea of "true" to the indictment's enhancement paragraph, the jury assessed his punishment at life imprisonment. Appellant argues in two points of error that the evidence is legally and factually insufficient to support the jury's verdict. We affirm.

BACKGROUND

The complainant, C.C., who was fifteen years old, was playing video games at her aunt's house with her brother, her brother's friend and appellant. C.C. returned to her home with appellant, who was twenty years old, to retrieve more video games. After arriving at her home, appellant followed C.C. into the laundry room and tried to kiss her. When she resisted his advances, appellant struck her repeatedly in the face and pushed her into a wall. C.C. grabbed a small pocket knife, in an effort to protect herself, but appellant took it away and ripped off her clothing. After having sexual intercourse with C.C., he pulled the telephone cord off the wall and rode away on his bicycle.

Subsequently, C.C. ran towards her aunt's house and told her she had been raped. Immediately, the aunt called the police. Upon arriving, the officer observed that C.C.'s eye was swollen and red, her bra strap was broken and hanging from her sleeve, and she had abrasions on her back and stomach.

Additionally, C.C.'s brother pointed out to the officer appellant's bicycle in front of a neighbor's house. The officer knocked on the door and appellant came to the door. He explained to the officer that he had just taken a shower. He voluntarily accompanied the officer to the police station.

After talking with the officer, C.C. was transported to the hospital whereupon the medical personnel prepared a sexual assault kit. Later that day, she was shown a photo spread containing appellant's photograph, and she identified him as the person who assaulted her.

A police crime lab chemist detected seminal stains on C.C.'s panties and found spermatozoa on a vaginal smear included in the sexual assault kit. The DNA analyst revealed that the DNA found on the panties and the vaginal swab was consistent with the appellant's DNA type. Additionally, the samples taken from C.C.'s panties and the vaginal swab would be expected to be found in only one in 21,663 individuals in the Caucasian population.

SUFFICIENCY OF THE EVIDENCE

In his first point of error, appellant argues the evidence is legally insufficient to support the jury's verdict. When reviewing the legal sufficiency of the evidence, we view the evidence in the light most favorable to the prosecution, and determine whether any rational trier of fact could have found the essential

elements of the crime beyond a reasonable doubt. *See Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed.2d 560 (1979); *Garrett v. State*, 851 S.W.2d 853, 857 (Tex. Crim. App. 1993). This same standard of review applies to cases involving both direct and circumstantial evidence. *See King v. State*, 895 S.W.2d 701, 703 (Tex. Crim. App. 1995). On appeal, this court does not reevaluate the weight and credibility of the evidence, but we consider only whether the jury reached a rational decision. *See Muniz v. State*, 851 S.W.2d 238, 246 (Tex. Crim. App. 1993).

Sexual assault is proven when the State shows that the defendant intentionally or knowingly caused the penetration of the anus or female sexual organ by any means. *See* TEX. PEN. CODE ANN. § 22.021 (Vernon Supp. 2000). The jury is the sole judge of the facts, the witnesses' credibility, and the weight to be given the evidence. *See Penagraph v. State*, 623 S.W.2d 341, 343 (Tex. Crim. App. 1981). Therefore, the jury may choose to believe or disbelieve any portion of the witnesses' testimony. *See Sharp v. State*, 707 S.W.2d 611, 614 (Tex. Crim. App. 1986). Contradictions or conflicts between the witnesses' testimony do not destroy the sufficiency of the evidence; rather, they relate to the weight of the evidence, and the credibility the jury assigns to the witnesses. *See Weisinger v. State*, 775 S.W.2d 424, 429 (Tex. App.—Houston [14th Dist.] 1989, pet. ref'd). The jury exclusively resolves conflicting testimony in the record. *See Heiselbetz v. State*, 906 S.W.2d 500, 504 (Tex. Crim. App. 1995). A reviewing court may not substitute its conclusions for that of the jury, nor may it interfere with the jury's resolution of conflicts in the evidence. *See id.*

This principle “that credibility is judged solely by the fact finder unequivocally applies to the testimony of a victim of sexual assault.” *Karnes v. State*, 873 S.W.2d 92, 96 (Tex. App.—Dallas 1994, no pet.). The testimony of a sexual assault victim is sufficient evidence to support a conviction. *See Garcia v. State*, 563 S.W.2d 925, 928 (Tex. Crim. App. 1978).

Viewing the evidence in the light most favorable to the verdict, we find the evidence was legally sufficient to support the jury's verdict. Accordingly, we overrule appellant's first point of error.

In his second point of error, appellant argues the evidence is factually insufficient to support the jury's verdict.

To review whether the verdict is supported by factually sufficient evidence, we ask whether a neutral review of all the evidence, both for and against the finding, demonstrates that the proof of guilt is so obviously weak as to undermine confidence in the jury's determination, or the proof of guilt, although adequate if taken alone, is greatly outweighed by contrary proof. *See Johnson v. State*, 23 S.W.3d 1, 11 (Tex. Crim. App. 2000); *see also Childs v. State*, 21 S.W.3d 631, 634 (Tex. App.—Houston [14th Dist.] 2000, pet. ref'd). If we determine a manifest injustice has occurred, we may not defer to the jury's findings, but rather provide a "clearly detailed explanation of that determination that takes all of the relevant evidence into consideration." *Johnson*, 23 S.W.3d at 12; *see Cain v. State*, 958 S.W.2d 404, 407 (Tex. Crim. App. 1997).

After conducting a neutral review of the evidence, we find the proof of guilt is not so obviously weak as to undermine confidence in the jury's determination. Accordingly, we overrule appellant's second point of error.

Having overruled each of appellant's points of error, we affirm the trial court's judgment.

/s/ Ross A. Sears
 Justice

Judgment rendered and Opinion filed February 1, 2001.

Panel consists of Justices Sears, Cannon, and Hutson-Dunn.*

Do Not Publish — TEX. R. APP. P. 47.3(b).

*Senior Justices Ross A. Sears, Bill Cannon, and D. Camille Hutson-Dunn sitting by assignment.

