

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Plaintiff/Appellee,

v.

JOHN REYES CASTRO,
Defendant/Appellant.

Supreme Court Appeal No. CR-05-0022-GA
Superior Court Case No. 03-0389-C

OPINION

Cite as: *Commonwealth v. Castro*, 2007 MP 9

Submitted on September 1, 2006
Saipan, Northern Mariana Islands

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FOR PUBLICATION

BEFORE: JESUS C. BORJA, Justice *Pro Tempore*; EDWARD MANIBUSAN, Justice *Pro Tempore*; and TIMOTHY H. BELLAS, Justice *Pro Tempore*

BORJA, Justice *Pro Tempore*:

¶ 1 Appellant John Reyes Castro (“appellant”) appeals his conviction of sexual abuse of a minor in violation of 6 CMC § 1306(a)(1), sexual assault in the first degree in violation of 6 CMC § 1301(a)(1), assault and battery in violation of 6 CMC § 1202(a), and disturbing the peace in violation of 6 CMC § 3101(a). We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands. The only issue before the Court is whether there was sufficient evidence to support the jury’s verdict. Because the uncorroborated testimony of the victim is sufficient to uphold the conviction, we affirm.

I.

¶ 2 On March 29, 2003, the victim, a five-year-old girl, complained to her aunt that she was bleeding from her vagina.¹ Upon investigation, the aunt noticed that there was blood in the toilet bowl and on the victim’s clothing. The aunt proceeded to give the victim a shower whereupon the victim started crying and the aunt saw a red irritation on the victim’s vagina. The aunt asked the victim what was wrong and the victim replied, “Papa is bad. Papa is bad.” The victim identified “Papa” as appellant.

¶ 3 With this information, the aunt and the victim’s natural mother took the victim to the hospital where a doctor examined her. The doctor examined the victim for evidence of sexual assault, and found traces of blood.² The doctor also found the victim’s hymen intact. During the doctor’s interview, the victim gave “yes” and “no” answers to

¹ The aunt was the victim’s primary caregiver.

² The blood was not the result of any trauma, but was caused by the victim’s urinary tract infection and bacterial vaginitis.

questions, and the victim told the doctor that her father had stuck his finger into her vagina. The doctor did not find anything in his examination that would be inconsistent with the victim's story that she was digitally penetrated.

¶ 4 The day after the doctor's examination, a Child Protective Unit ("CPU") worker, who is trained in handling sexual assault cases, interviewed the victim. The CPU worker brought the victim to the Department of Public Safety and interviewed her again the next day. After the interview the CPU worker considered the case substantiated because the victim gave a detailed account of the abuse.

¶ 5 By the time the victim testified at trial she was seven-years-old. She testified about good touches and bad touches in her "private part," and identified appellant as the person who touched her. When asked where, she pointed to the space between the legs of a teddy bear. The victim also described the touching by moving her open hand in a circular motion parallel to the ground.

¶ 6 The doctor's testimony was also introduced as evidence at trial. The doctor stated that the victim told him that someone touched her, and the victim answered affirmatively when asked whether appellant touched her with his fingers. The doctor even wrote down what the victim reported to him, that "Daddy" used his fingers to hurt her.

¶ 7 The victim's mother and the appellant testified on behalf of the appellant at trial. Despite their testimony, appellant was convicted of sexual abuse of a minor, sexual assault in the first degree, assault and battery, and disturbing the peace. The trial court sentenced appellant to a five year term of imprisonment for sexual abuse of a minor, five years for sexual assault in the first degree, and six months for disturbing the peace. Appellant now appeals his conviction before this Court.

II.

¶ 8 The issue of whether there is sufficient evidence to support appellant's conviction is reviewed *de novo*. *Commonwealth v. Yan*, 4 N.M.I. 334, 336 (1996). A challenge to the sufficiency of the evidence in a criminal case requires the Court to consider the evidence in the light most favorable to the government and to determine whether any reasonable trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *See, e.g., Commonwealth v. Delos Reyes*, 4 N.M.I. 340, 342 (1996).

¶ 9 In reviewing the evidence, the Court should not substitute its judgment for that of the jury. *See United States v. Espinosa*, 771 F.2d 1382, 1391 (10th Cir. 1985). Further, the Court must resolve issues of witness credibility in favor of the prosecution, *Commonwealth v. Camacho*, 2002 MP 6 ¶108, and "it is the exclusive function of the jury to determine the credibility of witnesses, resolve evidentiary conflicts, and draw reasonable inference from proven facts[.]" *United States v. Alarcon-Simi*, 300 F.3d 1172, 1176 (9th Cir. 2002) (quotations omitted).

¶ 10 Appellant contends that there is insufficient evidence of actual penetration to sustain his conviction because the victim's testimony was coached and uncorroborated. Appellant first claims that the aunt coached the victim's testimony.³ Appellant uses the record to show that the aunt dislikes him, that the aunt lies,⁴ and that the natural mother was forbidden from asking the victim what happened. Assuming these accusations are true, these are witness credibility issues that the jury freely took into account at trial. *See Camacho*, 2002 MP 6 ¶ 108 ("We may not . . . consider the credibility of witnesses.").

³ Appellant's claim is made without a single citation to the record.

⁴ The aunt's lies are an assertion, with no proof in the record.

¶ 11 Aside from the fact that the doctor’s testimony that the victim told him that “Daddy” touched her with his hand, and the CPU worker’s testimony that the victim told her that appellant touched her “private part” with his finger, appellant also maintains that the only evidence against him was the victim’s uncorroborated testimony. “[T]he reviewing court must respect the exclusive province of the jury to determine the credibility of witnesses, resolve evidentiary conflicts, and draw reasonable inferences from proven facts, by assuming that the jury resolved all such matters in a manner which supports the verdict.” *United States v. Ramos*, 558 F.2d 545, 546 (9th Cir. 1977). A jury’s credibility determinations are therefore entitled to a high level of deference.

¶ 12 Even assuming appellant’s arguments that the victim’s testimony is uncorroborated, based solely on the victim’s testimony, a rational trier of fact could still have found the sexual penetration element of sexual abuse of a minor beyond a reasonable doubt. *See United States v. Howard*, 218 F.3d 556, 565 (6th Cir. 2000) (maintaining that the testimony of a sexual assault victim alone is sufficient to support a conviction); *People of the Territory of Guam v. McGarvey*, 14 F.3d 1344, 1346-47 (9th Cir. 1994) (upholding sexual molestation conviction based entirely on uncorroborated testimony of the victim); *see also State v. Galbreath*, 69 Wash. 2d 664, 669 (1966) (finding that a conviction for indecent or obscene exposure of one’s person before a child under fifteen-years-old can be sustained upon the uncorroborated testimony of a complaining witness, if the jury finds such testimony to be true, since such offense is rarely if ever committed under circumstances permitting knowledge and observation by persons other than the accused and the complaining witness).

III.

¶ 13 Accordingly, the uncorroborated testimony of the victim is sufficient to uphold appellant's conviction. We also hold that the credibility of the witness is within the province of the trier of fact. Based on the foregoing, we AFFIRM.

DATED this 11th day of APRIL, 2007.

/s/ Jesus C. Borja
JESUS C. BORJA
Chief Justice *Pro Tem*

/s/ Edward Manibusan
EDWARD MANIBUSAN
Justice *Pro Tem*

/s/ Timothy H. Bellas
TIMOTHY H. BELLAS
Justice *Pro Tem*