

NOTICE

Memorandum decisions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law, although it may be cited for whatever persuasive value it may have. See McCoy v. State, 80 P.3d 757, 764 (Alaska App. 2002).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

CHAD MICHAEL WILLIAMS,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-13028
Trial Court No. 3AN-16-02117 CR

MEMORANDUM OPINION

No. 6925 — March 3, 2021

Appeal from the Superior Court, Third Judicial District,
Anchorage, Jack W. Smith and Michael Spaan, Judges.

Appearances: Doug Miller, Law Office of Douglas S. Miller,
Anchorage, under contract with the Office of Public Advocacy,
for the Appellant. RuthAnne Beach, Assistant Attorney
General, Office of Criminal Appeals, Anchorage, and Kevin G.
Clarkson, Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, and Wollenberg and Harbison,
Judges.

Judge WOLLENBERG.

Following a jury trial, Chad Michael Williams was convicted of four counts
of third-degree sexual abuse of a minor for conduct involving E.B., the daughter of his

longtime girlfriend.¹ Williams’s convictions were based on the theory that he engaged in sexual penetration with E.B. when she was sixteen years old and at least three years younger than Williams, and he occupied a position of authority in relation to E.B.

On appeal, Williams does not challenge the jury’s finding that he sexually penetrated E.B. Instead, he argues that the State presented insufficient evidence at trial to establish that he occupied a position of authority in relation to E.B.

Having reviewed the record, we conclude that a reasonable juror could find that the State had proved this element beyond a reasonable doubt. We therefore affirm Williams’s convictions.

Underlying facts and proceedings

Because Williams challenges the sufficiency of the State’s evidence, we present the evidence in the light most favorable to the jury’s verdicts.² We focus on the evidence supporting the “position of authority” element because this is the only element that Williams challenges.

Beginning when E.B. was a young child, Williams and E.B.’s mother had a relationship that lasted seventeen years. In 2015, E.B. confided in her husband that, in the summer of 2005, when she was sixteen years old, Williams engaged in sexual penetration with her multiple times. At the time Williams engaged in this conduct, E.B. was living with her mother, Williams, Williams’s mother, and E.B.’s two younger half-siblings (the biological children of Williams and E.B.’s mother).

With her husband’s encouragement, E.B. contacted the Anchorage police to report Williams’s conduct. The police obtained a *Glass* warrant to record a telephone

¹ Former AS 11.41.438(a)(2) (2005).

² See *Augustine v. State*, 355 P.3d 573, 587 (Alaska App. 2015).

conversation between E.B. and Williams.³ During the ensuing phone call, Williams admitted to having sexual intercourse with E.B.

Following this call, Anchorage Police Department Detective Brett Sarber conducted a telephonic interview with Williams. In the interview, Williams initially denied having sexually penetrated E.B.

Sarber then asked Williams when he had last spoken with E.B. When Williams stated (falsely) that he had not spoken with E.B. recently, Sarber asked if he knew where E.B. was living. Williams replied that both E.B. and his “other daughter” were living in Sand Point. When Sarber again asked Williams if anything had happened between him and E.B., Williams again denied the accusations, saying, “No, nothing happened. Well, definitely not, I love my kids. I always have loved my kids. I take good care of my kids.”

Sarber then asked Williams questions about his relationship with E.B. Williams said that E.B. came into his life when she was one year old. When asked directly if he considered E.B. to be his daughter, Williams responded that he did “up to a point.” He acknowledged that E.B. was not technically his daughter, but he agreed that he was “basically” her “dad” and said that he had “raised” and “helped take care of her.”

Ultimately, Sarber confronted Williams with the statements he had made in the recorded telephone call with E.B. At that point, Williams admitted to engaging in sexual penetration with E.B. Williams described the first time he had sexual intercourse with E.B., as well as multiple locations where they engaged in sexual intercourse. He admitted to sexually penetrating E.B. a total of four or five times.

³ See *State v. Glass*, 583 P.2d 872 (Alaska 1978).

A grand jury subsequently indicted Williams on four counts of third-degree sexual abuse of a minor.⁴

Williams's case proceeded to a jury trial. At trial, E.B. testified that Williams sexually penetrated her "a number of times," and she testified to four specific incidents, on which the four convictions in this case are based. The locations and timing of these incidents were consistent with the details that Williams provided in his telephonic interview with Sarber.

When the prosecutor asked E.B. how she knew Williams, E.B. described Williams as her "stepfather" (although she clarified, after a subsequent question, that Williams and her mother were never married). E.B. testified that, as far as she remembered, she lived with her mother and Williams nearly her entire childhood, although she conceded that there may have been times when her mother and Williams were having problems and she lived solely with her mother. When asked if Williams was a father figure to her, E.B. stated that "for the most part" he was.

E.B. testified that, when she was growing up, her mother and Williams made the rules and that it was "mostly [Williams] that did the discipline" in the form of grounding or time-outs. As a child, she was expected to obey Williams in the same way she was expected to obey her mother.

E.B. acknowledged that, by the time she was sixteen years old, she was no longer expected to follow the same set of rules that existed when she was younger. But when asked if Williams and her mother continued to tell her to do things, she said that they did.

E.B.'s mother also testified. She testified that she dated Williams for "[s]eventeen years, off and on." She stated that, by the time E.B. was sixteen, she was

⁴ Former AS 11.41.438(a)(2) (2005).

the person primarily responsible for disciplining E.B., but that she would discuss how to discipline E.B. with Williams and that both she and Williams would give directions to the children. She also testified that when Williams was home alone with the children, E.B. was expected to be respectful of him and listen to him.

The State introduced recordings of both the *Glass* warrant conversation between E.B. and Williams and the telephonic interview between Sarber and Williams.

The jury convicted Williams as charged.

Why we conclude that there was sufficient evidence to establish that Williams was in a position of authority in relation to E.B.

On appeal, Williams argues that there was insufficient evidence for the jury to find that he occupied a position of authority in relation to E.B.

In order to fully address Williams’s argument, it is necessary to explain the statutory framework that the legislature has created in criminalizing sexual abuse of a minor. In Alaska, the age of consent is generally sixteen. But the age of consent increases to eighteen when the adult has certain special relationships with the child.⁵ One such relationship that increases the age of consent to eighteen is when the adult occupies a “position of authority” in relation to the victim.⁶

Williams was convicted under a statute that prohibits engaging in sexual penetration with a minor who is sixteen or seventeen years old, by a person who is at least three years older than the minor and who occupies a position of authority in relation to the minor.⁷ The phrase “position of authority” is defined as “an employer, youth

⁵ See, e.g., AS 11.41.434(a)(2); AS 11.41.436(a)(3) & (a)(6); AS 11.41.440(a)(2).

⁶ AS 11.41.436(a)(6) (sexual penetration); AS 11.41.440(a)(2) (sexual contact).

⁷ Former AS 11.41.438(a)(2) (2005) (third-degree sexual abuse of a minor). This
(continued...)

leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor.”⁸

In *Wurthmann v. State*, we considered when a live-in boyfriend of the mother of a child victim occupies a position of authority in relation to the victim:

A roommate, adult step-sibling, or live-in boyfriend might, depending on the dynamics of the household, the personalities of the individuals involved, and the amount of authority the legal or biological parent delegates, have only limited and intermittent authority over a child in the household. But a live-in boyfriend who assumes the position of a stepfather has additional influence by virtue of his status as a person of special trust in the child’s life.^[9]

We explained that “[b]ecause Wurthmann assumed authority over [the victim] not just as her mother’s live-in boyfriend, but as [the victim’s] stepfather and primary caretaker, a reasonable jury could conclude that he exercised undue influence over [the victim] and was in a ‘position of authority’ over her.”¹⁰

Williams’s claim in this case is that he did not occupy a “position of authority” in relation to E.B. He argues that, at most, Williams had only limited and intermittent authority over E.B. and that the State presented insufficient evidence to

⁷ (...continued)
conduct now constitutes second-degree sexual abuse of a minor under AS 11.41.436(a)(6).

⁸ AS 11.41.470(5).

⁹ *Wurthmann v. State*, 27 P.3d 762, 765 (Alaska App. 2001).

¹⁰ *Id.* at 766; *see also Thompson v. State*, 378 P.3d 707, 712 (Alaska App. 2016), *rev’d on other grounds*, 435 P.3d 947 (Alaska 2019).

establish that he occupied a “position of authority,” as the legislature has defined that phrase.

But when we review a claim of evidentiary insufficiency, we are required to view the evidence — and all reasonable inferences from the evidence — in the light most favorable to the jury’s verdict.¹¹ Viewing the evidence in that light, we conclude that a reasonable juror could find that Williams had assumed the role of E.B.’s stepfather and that he occupied a position of authority over E.B. In particular, Williams was the live-in boyfriend of E.B.’s mother from the time E.B. was a young child until she became a legal adult. In her testimony, E.B. referred to Williams as her stepfather and she agreed that he was a “father figure” to her. As a child, E.B. was expected to follow the rules set by both her mother and Williams, and Williams was primarily responsible for disciplining her. In his interview with Detective Sarber, Williams said that he was basically E.B.’s “dad” and that he had helped raise and take care of her.

Williams argues that, even if he once held a position of authority over E.B., he no longer occupied such a position at the time he engaged in sexual penetration with her. Williams points to testimony that, by the time E.B. was sixteen years old, she did not respect Williams and no longer followed the same rules, and that E.B.’s mother was the person primarily responsible for disciplining her. Williams also notes that the State did not present evidence of a specific time that Williams disciplined E.B.

But Williams is viewing the evidence in the light most favorable to himself. The jury could have viewed the evidence identified by Williams as a reflection of E.B.’s age at the time of the abuse. The jury was not required to accept Williams’s characterization of these developments as negating his position of authority. We note that E.B.’s mother testified that, even after E.B. turned sixteen, both she and Williams

¹¹ See *Iyapana v. State*, 284 P.3d 841, 848-49 (Alaska App. 2012).

would give directions to the children, and E.B. was expected to be respectful of Williams and listen to him. When we review the sufficiency of the evidence, we do not weigh the evidence or assess witness credibility on appeal; these are questions for the trial jury.¹² Here, the jury could reasonably conclude that, when Williams engaged in sexual intercourse with E.B., he was still acting as E.B.’s stepfather.

Williams also argues that he did not occupy a role that was “substantially similar” to any of the roles listed in the definition of “position of authority.” But as we concluded in *Wurthmann*, a person who assumes a role akin to that of a stepparent is in a position of authority: “[I]t would be unreasonable to attribute to the legislature an intent to impose criminal liability on a babysitter or teacher but not a live-in boyfriend who assumes the role of a stepfather and is even better positioned to manipulate a child in his care.”¹³

Viewed in the light most favorable to the verdict, the evidence presented at Williams’s trial was sufficient for a reasonable juror to conclude beyond a reasonable doubt that Williams occupied a position of authority in relation to E.B. We therefore affirm Williams’s convictions for third-degree sexual abuse of a minor.

Conclusion

The judgment of the superior court is AFFIRMED.

¹² *Id.* at 849.

¹³ *Wurthmann*, 27 P.3d at 766.