FILED
November 5, 2026
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

State of West Virginia,
Plaintiff Below, Respondent

v.) No. 23-749 (Jackson County CC-18-2020-F-96)

John L.,
Defendant Below, Petitioner

MEMORANDUM DECISION

The petitioner, John L.,[1] appeals his convictions for various sex crimes, as reflected in the Circuit Court of Jackson County's December 1, 2023, sentencing order.[2] The petitioner claims that there was insufficient evidence to support his convictions. Upon our review, finding no substantial question of law and no prejudicial error, we determine that oral argument is unnecessary and that a memorandum decision affirming the circuit court's order is appropriate. *See* W. Va. R. App. P. 21(c).

The petitioner was indicted on thirty counts of incest; thirty counts of second-degree sexual assault; twenty-two counts of first-degree sexual abuse; fifty-two counts of sexual abuse by a parent, guardian, custodian, or a person in a position of trust; and two counts of soliciting a minor via computer. At trial, the petitioner's stepdaughter, S.M., testified that between 2015 and 2020, when she was between the ages of twelve and seventeen years old, the petitioner digitally penetrated her more than ten times, had sexual intercourse with her more than ten times, and sexually contacted her breasts and buttocks more than ten times. Overall, S.M. testified that the petitioner molested her on more occasions than she could count, but she estimated that the petitioner touched her breasts and buttocks and performed oral sex on her a "[c]ouple times a week." S.M. testified that the petitioner frequently reminded her to take birth control pills, and she recounted an incident in which the petitioner thought she was pregnant because his condom broke and he took her to buy a "morning after" pill. S.M. explained that, on many occasions, she awoke

[1] We use initials and limit personal identifiers where necessary to protect the identities of those involved in this case. *See* W. Va. R. App. P. 40(e)(1).

[2] The petitioner appears by counsel Mark Plants. The State appears by Attorney General John B. McCuskey and Assistant Attorney General Mary Beth Niday. Because a new Attorney General took office while this appeal was pending, his name has been substituted as counsel.

with the petitioner on top of her and she "froze up" while he engaged in sexual intercourse with her. S.M. also testified that the petitioner sent text messages to her asking if they could engage in sexual relations after her mother went to work and then sent text messages after asking if she enjoyed it; the State introduced these text messages into evidence. J.B., who was also the petitioner's stepdaughter, testified that the petitioner touched her vagina at least twelve times between 2019 and 2020 when she was nine years old. J.B. further testified that the petitioner would commit this act while she was sleeping, that she would wake up in pain, and that it made her feel "weird [and] uncomfortable." Both S.M. and J.B. testified that the petitioner was their stepfather and that he acted as their caretaker.

Maureen Runyon, who was qualified as an expert in conducting forensic interviews of sexually abused children, testified about her forensic interviews of S.M. and J.B. Those interviews were played for the jury. During her interview, S.M. told Ms. Runyon that she had sexual intercourse with the petitioner four times a week between the ages of twelve and seventeen, and J.B. also disclosed that the petitioner had sexually abused her. Ms. Runyon also testified that S.M. did not immediately disclose the petitioner's abuse because she "was afraid if she told, that she would be taken away from her mom." Dr. Joan Phillips, who was qualified as an expert in child sexual abuse, testified that she performed examinations of S.M. and J.B., and she did not find any physical evidence of vaginal or rectal penetration. However, Dr. Phillips opined that "physical findings are uncommon" among children who have been sexually molested, and that it is "a myth" that there must be physical findings if penetration occurred.

S.M.'s mother, J.L., testified that the petitioner admitted that he digitally penetrated S.M. and performed oral sex on her. Sarah Warner, a former Child Protective Services ("CPS") worker, also testified that S.M. told her that the petitioner had been sexually abusing her since she was twelve years old. S.M.'s fiancé, K.D., testified that S.M. told her in 2020 that the petitioner "was raping her[,]" but she delayed disclosure because "[s]he was afraid to be in foster care." The State also introduced a recorded phone call in which the petitioner admitted to "having sex" with S.M. on two occasions. Detective Seth Fisher from the Jackson County Sheriff's Department also testified that the petitioner made a statement to him admitting that he engaged in "sexual activity" with S.M. Following the State's presentation of evidence, the petitioner moved for a judgment of acquittal based on the sufficiency of the evidence, and the circuit court denied the motion.

The petitioner's stepdaughter, W.L., a witness for the defense, testified that she was not aware of any "concerning behaviors between [the petitioner and S.M.]" during the year that she lived in the home with them. However, W.L. admitted that J.B. told her that the petitioner had "touched her . . . [vagina] over her panties." Finally, when the petitioner testified, he agreed that he had "touch[ed S.M.] inappropriately" on two occasions, but he denied the remainder of the allegations against him. At the conclusion of the case, the jury convicted the petitioner of all charges, and the circuit court imposed an effective term of life imprisonment. The petitioner now appeals.

When this Court reviews a challenge to the sufficiency of the evidence to support a conviction, "the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt." Syl. Pt. 1, in part, *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995). Further, this Court will not set aside a jury verdict because of insufficient evidence unless "the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt." *See id.* at 663, 461 S.E.2d at 169, Syl. Pt. 3, in part.

On appeal, the petitioner argues that there was insufficient evidence to support his convictions. Specifically, the petitioner argues that there was a lack of physical evidence to corroborate the testimony of the witnesses, emphasizing the testimony of Dr. Phillips, who admitted that her examinations of S.M. and J.B. were "normal" and revealed no physical evidence of a sex crime. The petitioner also argues that "[the victims'] unsupported testimony was vague, not credible, and in direct contrast to the physical evidence."

The evidence admitted at trial was sufficient to support the petitioner's convictions for incest,[3] second-degree sexual assault,[4] first-degree sexual abuse,[5] and sexual abuse by a parent, guardian, custodian, or person in a position of trust.[6] The evidence presented at trial demonstrated that the petitioner engaged in sexual intercourse with his stepdaughter, S.M., through forcible compulsion on at least thirty occasions over a five-year period. In describing the sexual intercourse, S.M. testified that the petitioner would lie on top of her, that he penetrated her vagina with his penis, that she would "fr[ee]ze up" and pretend to be asleep, and that she was much smaller than the petitioner and she could not physically stop him. S.M. also testified that she told her

[3] West Virginia Code § 61-8-12(b) provides that a person is guilty of incest when he "engages in sexual intercourse or sexual intrusion with his or her . . . daughter[.]" Sexual intercourse is defined as "any act between persons involving penetration, however slight, of the female sex organ by the male sex organ . . . ." W. Va. Code § 61-8-12(a)(12). A "daughter" includes "the daughter of a person's husband or wife." W. Va. Code § 61-8-12(a)(3).

[4] West Virginia Code § 61-8B-4(a)(1) provides that a person is guilty of second-degree sexual assault when he "engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion."

[5] West Virginia Code § 61-8B-7(a)(1) provides that a person is guilty of first-degree sexual abuse when he "subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion" or when "such person, being fourteen years old or more, subjects another person to sexual contact who is younger than twelve years old." "Sexual contact" is defined as "any intentional touching, either directly or through clothing, of the breasts, buttocks, anus, or any part of the sex organs of another person . . . and the touching is done for the purpose of gratifying the sexual desire of either party." W. Va. Code § 61-8B-1(5).

[6] West Virginia Code § 61-8D-5(a) provides that a parent, guardian, custodian, or person in a position of trust is guilty of a felony if he "engages in . . . sexual intercourse, sexual intrusion or sexual contact with a child under his . . . care, custody or control[.]"

mother about the ongoing abuse, but she was afraid of being placed in foster care if she disclosed the petitioner's acts to CPS or to police. Further, both S.M. and J.B. testified that the petitioner subjected them to sexual contact on at least twenty-two occasions by touching S.M.'s breasts and buttocks and J.B.'s vagina while they were sleeping. As previously noted, S.M. testified regarding her fears of being placed in foster care and the size discrepancy between her and the petitioner, and J.B. testified that she was only nine years old when the sexual contact occurred; it is undisputed that the petitioner was over the age of fourteen. The evidence further demonstrated that these instances of sexual assault and sexual abuse occurred while the petitioner was the children's stepfather and while they were under his care, custody, or control. Considering this evidence in the light most favorable to the State, including "all inferences and credibility assessments that the jury might have drawn in favor of the prosecution[,]" we conclude that a rational trier of fact could have found the essential elements of the crimes of incest; second-degree sexual assault; first-degree sexual abuse; and sexual abuse by a parent, guardian, custodian, or person in a position of trust were proved beyond a reasonable doubt. *See Guthrie*, 194 W. Va. at 663, 461 S.E.2d at 169, Syl. Pt. 3, in part.

While the petitioner argues that there was no physical evidence of these sexual offenses and that the victims' testimony was uncorroborated, we note that Dr. Phillips testified that physical evidence of a sex crime is rarely present, and the victim's testimony was corroborated by several witnesses and the petitioner's own inculpatory pretrial admissions. While the petitioner may find the victims' testimony not credible and disagree with the jury's weighing of the evidence, "[a] conviction for any sexual offense may be obtained on the uncorroborated testimony of the victim, unless such testimony is inherently incredible, [and] the credibility is a question for the jury." Syl. Pt. 5, *State v. Beck*, 167 W. Va. 830, 286 S.E.2d 234 (1981); *Guthrie*, 194 W. Va. at 663, 461 S.E.2d at 169, Syl. Pt. 3, in part ("[c]redibility determinations are for a jury and not an appellate court"). Finally, to the extent that the petitioner claims there was insufficient evidence to support his convictions for soliciting a minor by a computer,[7] we find no error, as S.M. testified that the petitioner sent her at least two text messages to her to solicit, entice, seduce, or lure her into engaging in sexual intercourse with him, and the State introduced these messages into evidence. In sum, we conclude that sufficient evidence was presented to support the petitioner's convictions of these various sex crimes; the petitioner entitled to no relief.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: November 5, 2026

[7] West Virginia Code § 61-3C-14b(a) provides that a person is guilty of a felony if he "knowingly uses a computer to solicit, entice, seduce, or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer in order to engage in any" sex crime.

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick
Justice James W. Flanigan