Affirmed and Opinion filed June 1, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-98-00643-CR

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ROBERT LEE THOMPSON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 179th District Court
Harris County, Texas
Trial Court Cause No. 758,912

O P I N I O N

Robert Lee Thompson appeals his conviction by a jury for aggravated sexual assault of a child. The jury assessed his punishment at 85 years imprisonment and a $10,000.00 fine. In one point of error, appellant contends the trial court erred in admitting victim impact evidence into evidence at the guilt-innocence stage of the trial. We affirm.

On July 4, 1997, appellant went to 11-year-old K.S.'s house while her mother was at a friend's house. Appellant brought some beer and gave it to K.S., and they drank the beer. Appellant told K.S. to call her mother and find out when her mother was coming home. K.S. called her mother, Debra Speeg, who felt that K.S. was drunk. Mrs. Speeg immediately got in her car and returned home. Before Mrs.

Speeg arrived, appellant told K.S. to perform oral sex on him, which she did. Mrs. Speeg pulled into the driveway, and saw appellant's truck there. Appellant went to the door, and told K.S., "Don't tell anybody or I'll get somebody to come kill you and your mom." Appellant then left the house, and told Mrs. Speeg he came to see the fireworks. K.S. testified that appellant also made her perform oral sex on him about two weeks prior to July 4, 1997. K.S. testified that appellant had known her since she was six, and that he had bought her a pager and a camera. K.S. stated that appellant told K.S. to take nude pictures of herself and give the pictures to him. K.S. stated that appellant had fondled her many times.

After K.S. told Mrs. Speeg that appellant had made her perform oral sex on him, Mrs. Speeg called the police. Officer Silvia Drehel talked to appellant about the complaint. Appellant told Drehel he would not call K.S. a liar, but he did not sexually assault K. S. He denied entering the house, and stated he did not give K. S. any beer. He contended K.S. invited him to her house to see her face makeup that she had painted on for July 4th. Appellant did not testify.

During the guilt-innocence phase of the trial, the State asked Mrs. Speeg about K.S.'s medical treatment since July 4, 1997. Mrs. Speeg testified that K.S. was presently under doctor's care and was taking Zoloft for depression, Risperdal for anxiety, and Depokate for anger. Appellant's objections were "immaterial and irrelevant," which were overruled by the trial court. On appeal, appellant contends the evidence was victim impact evidence which was irrelevant at the guilt/innocence phase of the trial, and the trial court had no discretion to admit it.

Appellant denied that he had anything to do with K.S.'s sexual assault, and he did not give her any beer, nor did he even enter her house on July 4, 1997. His defensive posture was that K.S. was not a liar, but he did not have anything to do with her assault. Accordingly, the evidence was relevant to establish the elemental fact that he committed the offense.

The judge could have concluded, without abusing his discretion, that K.S.'s change in behavior after the offense tended to prove that the offense occurred. Appellant cites no authority to the contrary. Here, appellant argued to the jury that no offense occurred. A change for the worse in the complainant's behavior after the offense is consistent with a traumatic event having befallen her. *Yatalese v. State*, 991 S.W.2d 509, 511 (Tex.App.-Houston[1st Dist.] 1999, pet. ref'd). We hold the evidence was relevant

because it tended to make more probable the existence of a fact of consequence to the determination of this action. We overrule appellant's sole point of error.

We affirm the judgment of the trial court.

/s/   Bill Cannon
Justice

Judgment rendered and Opinion filed June 1, 2000.

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

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

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