

SUPREME COURT OF NORTH DAKOTA

State of North Dakota v. Michael Allen Truelove

State v. Truelove, 2017 ND 283 (N.D. 2017) · No. 20170043 · Decided December 7, 2017

SUMMARY

The North Dakota Supreme Court affirmed Michael Allen Truelove’s convictions, including gross sexual imposition. The court held that sufficient evidence supported findings of slight penetration and that force used before or during the sexual act compelled the victim to submit under N.D.C.C. § 12.1-20-03(1)(a).

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jerod E. Tufte, Justice; Jerod E. Tufte; Daniel J. Crothers; Lisa Fair McEvers; Jon J. Jensen; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	December 7, 2017
DOCKET	20170043
DISPOSITION	affirmed
PROCEDURAL POSTURE	Truelove appealed a criminal judgment entered after a jury convicted him of gross sexual imposition, terrorizing, interfering with a telephone during an emergency call, and aggravated assault. He challenged only the gross-sexual-imposition conviction, arguing the evidence was insufficient.
STANDARD OF REVIEW	The court reviews the record to determine whether sufficient evidence could allow a jury to draw a reasonable inference in favor of the conviction. The evidence is viewed in the light most favorable to the verdict; the court does not reweigh conflicting evidence or judge witness credibility.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Michael Allen Truelove v. State of North Dakota

TOPICS

- criminal procedure
- evidence
- statutory interpretation

PRACTICE AREAS

criminal law

criminal procedure

sexual offenses

appellate review

QUESTIONS PRESENTED

1. Whether sufficient evidence supported the jury's finding that Truelove engaged in a sexual act involving penetration.
2. Whether sufficient evidence supported the finding that Truelove used force before or during the sexual act to compel HFP to submit, as required by N.D.C.C. § 12.1-20-03(1)(a).

HOLDINGS

1. Sufficient evidence supported a reasonable inference that penetration occurred because the victim testified that Truelove's penis was within her inner labia and against the vaginal opening, and the statute requires only slight penetration.
2. Under N.D.C.C. § 12.1-20-03(1)(a), force that compels a victim to submit must occur before or during the sexual act, not afterward. The evidence was sufficient because Truelove laid on HFP against her will, tore off her clothing, exposed her breasts, grabbed her breasts, and used other physical action before penetration.

KEY QUOTATIONS

“Under a plain language reading of the statute, to “compel” a victim to “submit,” the use of force must be either prior to or during the sexual act, but not after.” (¶ 10)

“The defendant bears the burden of showing the evidence reveals no reasonable inference of guilt when viewed in the light most favorable to the verdict.” (¶ 7)

FACTUAL BACKGROUND

Truelove and HFP went from a bar to Truelove's apartment after drinking alcohol and kissing. HFP testified that Truelove forcibly removed her clothing, subjected her to unwanted sexual contact, choked her, threatened her life, and interfered with her attempt to call 911. Truelove disputed portions of her account, testified that he stopped when she said no, and described a subsequent physical scuffle. The jury credited evidence sufficient to convict him of gross sexual imposition and three other offenses.

PROCEDURAL HISTORY

A jury found Truelove guilty of four offenses in the District Court of Cass County. The district court entered a criminal judgment, and Truelove appealed to the Supreme Court of North Dakota. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Kinsella, 2011 ND 88, ¶ 7, 796 N.W.2d 678
- State v. Wanner, 2010 ND 121, ¶ 9, 784 N.W.2d 143
- State v. Vantreece, 2007 ND 126, ¶ 18, 736 N.W.2d 428

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