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STATE OF MICHIGAN

COURT OF APPEALS

SHANNON BLACKMAN,

Plaintiff-Appellee,

v

TYLER DAVID MILLWARD,

Defendant-Appellant.

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No. 367240
Calhoun Circuit Court
LC No. 2019-002623-DS

AFTER REMAND

Before: GADOLA, C.J., and BORRELLO and PATEL, JJ.

PATEL, J.

This matter returns to this Court following remand to the trial court. Defendant had an inappropriate sexual relationship with plaintiff while he was her high school teacher.[1] Plaintiff became pregnant and gave birth to the child. It is undisputed that defendant is the biological father of the child. The parties executed an affidavit of parentage (AOP). Plaintiff moved to revoke the AOP under MCL 722.1445(2). The trial court granted plaintiff's motion, revoked the AOP, and terminated defendant's parental rights.

[1] Defendant pleaded guilty to three counts of third-degree criminal sexual conduct (CSC-III), MCL 750.520d(1)(e)(*i*), in three different counties for separate incidents involving plaintiff in 2017. He also pleaded guilty to witness intimidation, MCL 750.122(7)(b), for trying to convince plaintiff to lie to the police about their relationship. Additionally, defendant pleaded guilty to one count of lying to a peace officer, MCL 750.479c(2)(c), and one count of using a computer to commit a crime, MCL 750.145d(2)(f), for conduct that occurred in 2017. Defendant is currently on parole.

Defendant appealed. We concluded "that plaintiff's motion to revoke the AOP was timely and that the trial court was not required to consider the child's best interests before granting the motion under MCL 722.1445(2)." *Blackman v Millward*, __ Mich App __, __; __ NW3d __ (2024) (Docket No. 367240); slip op at 1. But we vacated the trial court's order and remanded this matter with instructions to the trial court to conduct a fact-finding hearing to determine whether the child was "conceived as a result of nonconsensual sexual penetration." *Id*. at __; slip op at 2. We further directed "the court to address the parameters of 'nonconsensual' conduct in its deliberation during its fact-finding hearing and in its subsequent opinion and order." *Id*. at __ n 5; slip op at 13 n 5.

On remand, the trial court conducted an evidentiary hearing and concluded that plaintiff had established by clear and convincing evidence that the child was conceived as a result of nonconsensual penetration. This case now returns to this Court for review. Having reviewed the trial court's thoughtful and well-reasoned oral decision, we affirm.

I. EVIDENTIARY HEARING

Consistent with our directions, the trial court conducted a fact-finding hearing to determine whether the child was conceived as result of nonconsensual sexual penetration.

Plaintiff testified regarding the history of her relationship with defendant. Plaintiff and defendant first met when she was in the eighth grade. Defendant was a teacher at the school that plaintiff attended. At that time, plaintiff was living with friends and working odd jobs to meet basic needs for herself because her parents were unstable and unable to care for her. When plaintiff was 16, her grandmother passed away. Defendant offered plaintiff his condolences and gave her a hug. At the end of that school year, defendant asked plaintiff for her cellular phone number and she provided it. Initially, the parties conversed through text messages. Defendant asked multiple times to spend time with plaintiff. Plaintiff repeatedly declined but eventually gave in and the parties began meeting outside of school. As things progressed, defendant attempted to initiate sexual contact. Plaintiff declined and pushed him away the first five times. When the parties eventually engaged in sexual intercourse, defendant was still a teacher at plaintiff's school.

Plaintiff maintained that defendant gave her gifts throughout their time together, including clothing and money for food, gas, and other items. When the police became involved, plaintiff did not initially cooperate. She testified that she felt guilty because she did not want to be responsible for defendant getting in trouble. She was also afraid that she might lose her housing and be in trouble with the police. However, she eventually cooperated.

There was no contact between plaintiff and defendant from January 9, 2018 until February 20, 2018. During that time period, plaintiff moved and her cellular phone was in police custody. Defendant located plaintiff and contacted her on February 20, 2018, which was just eight days after he had resigned from his teaching position. Defendant was still under investigation for CSC at that time. Defendant persuaded plaintiff to recant her statements to the police and to stop cooperating with the criminal investigation. Defendant told plaintiff that he would be separated from his family and that he would not be able to be with her. Plaintiff testified that she felt guilty and did not want to be responsible for taking a father away from his children and sending him to prison. Plaintiff eventually wrote letters to the court and recanted her statements.

Plaintiff testified that, as a teenager, she believed she wanted to be in a relationship with defendant. She acknowledged that, around the time that the child was conceived, defendant did not pressure her to have sexual intercourse, threaten her, or bribe her. However, as she matured, she realized that defendant took advantage of her youth and vulnerability by manipulating her and pushing boundaries into physical contact. Plaintiff explained that, at the time, she did not have parents present in her life or adult guidance, and defendant presented himself as a trusted person who could guide her. She stated that she did not want to disappoint the only person she could trust.

Plaintiff presented testimony from a clinical psychologist, Elizabeth Jeglic, Ph.D., who was qualified as an expert concerning sexual violence and sexual abuse without any objection from defendant. Dr. Jeglic described the typical grooming process that adult males employ on adolescent females, noting that they prey on vulnerable adolescents that lack self-confidence, a familial relationship, or a support system. The optimal targets are also financially vulnerable, have unstable housing, and have lost a loved one. Dr. Jeglic explained that these types of adolescents generally need a mentor and are looking for love, attention, and protection. She stated that grooming behavior is present in 99% of child sexual abuse cases.[2] Dr. Jeglic testified that the victim often believes that they are in a consensual relationship with the perpetrator but the victim cannot give consent "because of the psychological manipulation that involved in the grooming process."

Dr. Jeglic explained that sexual conduct in a grooming dynamic is not consensual because the victim has been psychologically manipulated. She testified that "the whole purpose of the grooming is to manipulate the child so that the sexual behavior can happen." Dr. Jeglic opined that it is not possible for a victim that has been groomed to provide consent to sexual conduct because "grooming is that psychological manipulation which prevents you from consenting freely[.]" She stated that psychological manipulation does not cease to affect consent when a victim crosses a statutory age threshold or when a teacher formally resigns. She explained that it can take years, even decades, for a victim to process that they were not in a consensual relationship.

Defendant maintained that the sexual penetration that resulted in the conception of the child occurred after his resignation and was consensual. He denied engaging in physical force, threats, or intimidation. Defendant did not present any evidence to rebut Dr. Jeglic's testimony.

In its oral decision, the trial court highlighted portions of the testimony from the hearing regarding plaintiff's and defendant's relationship dynamic. The trial court stated that defendant's behavior toward plaintiff throughout their relationship was consistent with the grooming process that Dr. Jeglic described and that plaintiff "fit the textbook example of a sexual abuse victim . . . ." The court found that defendant's "actions are also textbook as to how he gained her trust, psychologically manipulated her, groomed her, and continued to do so after he resigned as a teacher." The trial court relied on Dr. Jeglic's opinion that an adolescent girl does not have the free will to consent to sexual intercourse with a teacher, even if the teacher resigns, because the

[2] Dr. Jeglic clarified that she "uses 'child' and 'adolescent' interchangeably to refer to minors or people under the age of 18 based on our research."

abuse-neglect dynamic does not simply end upon the resignation. The trial court concluded that plaintiff had presented clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration. On the basis of its findings, the trial court revoked the AOP and terminated defendant's parental rights to the child.

II. ANALYSIS

"When reviewing a decision related to the Revocation of Paternity Act, this Court reviews the trial court's factual findings, if any, for clear error." *Id*. at __; slip op at 12 (cleaned up). "Findings of fact are clearly erroneous when this Court is left with the definite and firm conviction that a mistake has been made. Special deference is afforded to a trial court's factual findings that are based on witness credibility." *Id*. at __; slip op at 12 (cleaned up). "We review de novo the interpretation and application of statutory provisions." *Id*. at __; slip op at 12 (cleaned up).

"The principal goal of statutory interpretation is to give effect to the Legislature's intent, and the most reliable evidence of that intent is the plain language of the statute." *South Dearborn Environmental Improvement Ass'n, Inc v Dep't of Environmental Quality*, 502 Mich 349, 360-361; 917 NW2d 603 (2018). "We accord to every word or phrase of a statute its plain and ordinary meaning, unless a term has a special, technical meaning or is defined in the statute." *Guardian Environmental Servs, Inc v Bureau of Const Codes and Fire Safety*, 279 Mich App 1, 6; 755 NW2d 556 (2008). "Where the statutory language is unambiguous, the plain meaning reflects the Legislature's intent and the statute must be applied as written." *Honigman Miller Schwartz & Cohn LLP v City of Detroit,* 505 Mich 284, 294; 952 NW2d 358 (2020) (cleaned up). We must assign each word and phrase "such meanings as are in harmony with the whole of the statute, construed in light of history and common sense." *Id*. at 295. "We analyze the ordinary meaning of statutory language in the context of the entire statute to give it the reasonable construction that best accomplishes the purpose of the statute[.]" *Maples v State*, 507 Mich 461, 470; 968 NW2d 446 (2021) (cleaned up). If a statutory term is undefined, it "must be accorded its plain and ordinary meaning." *Brackett v Focus Hope, Inc*, 482 Mich 269, 276; 753 NW2d 207 (2008). A lay dictionary may be consulted to determine the plain and ordinary meaning of a word or phrase. *Id*.

In 2015, the federal government enacted the Rape Survivor Child Custody Act (RSCCA), 34 USC 21301, *et seq*. As we explained in *Blackman*, "[t]he RSCCA authorizes the Attorney General to make grants to states that implement laws that allow the mother of any child that was conceived through rape to seek court-ordered termination of the parental rights of her rapist, upon clear and convincing evidence of rape." *Blackman*, __ Mich App at __; slip op at 5. "The compelling state interest justification for the RSCCA was identified as preventing additional trauma to the crime victim and her child." *Id*. at __; slip op at 5.

Michigan's Revocation of Paternity Act (ROPA), MCL 722.1431, *et seq*., was enacted in 2012. 2012 PA 159. The ROPA provides remedies for a survivor of sexual assault who becomes

pregnant by, and thereafter is raising the child of, her assailant.[3] In 2016, our Legislature conformed the ROPA to the RSCCA. Pertinent to this appeal, 2016 PA 178 added Subsections (2), (3), and (4) to MCL 722.1445 "to ensure 'termination of parental rights' of the assailant, as defined at 34 USC 21301(2)." *Blackman*, __ Mich App at __; slip op at 6. Relevantly, MCL 722.1445 authorizes a mother to bring an action to vindicate "the Legislative policy determination that rapists should not have parental rights to the children they father through rape." *Blackman*, ___ Mich App at ___; slip op. at 9-10:

> (2) If an action is brought by a mother who, after a fact-finding hearing, proves by clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration, the court shall do 1 of the following:
>
> (a) Revoke an acknowledgment of parentage for an acknowledged father.
>
> (b) Determine that a genetic father is not the child's father.
>
> (c) Set aside an order of filiation for an affiliated father.
>
> (d) Make a determination of paternity regarding an alleged father and enter an order of revocation of paternity for that alleged father.
>
> (3) Subsection (2) does not apply if, after the date of the alleged nonconsensual sexual penetration described in subsection (2), the biological parents cohabit and establish a mutual custodial environment for the child.
>
> (4) As used in this section, "sexual penetration" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a. [MCL 722.1445, as amended by 2016 PA 178.]

In this case, the parties agree that the child was conceived in March of 2018. Although defendant was no longer plaintiff's teacher at that time, plaintiff contends that the sexual penetration during the conception window was nonconsensual. The ROPA defines the term "sexual penetration" but it does not define the term "nonconsensual."

Because the ROPA does not define "nonconsensual," we begin our analysis with the dictionary definition. See *Brackett*, 482 Mich at 276. Merriam-Webster's online dictionary defines "nonconsensual" as "not agreed to by one or more of the people involved[.]"[4] The Cambridge online dictionary defines "nonconsensual as "without the willing agreement of all the

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[3] The act was amended after plaintiff filed her motion and is now known as the Revocation of Parentage Act. See 2024 PA 29. We will reference the version of the statute in effect at the time that plaintiff filed her motion.

[4] Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/nonconsensual> (accessed September 23, 2026).

people involved[.]"[5] Applying the plain and ordinary meaning of nonconsensual to its use in MCL 722.1445(2), the term "nonconsensual" means not agreed to willingly by all people involved. This meaning best gives effect to the ROPA's purpose, which is "to provide procedures to determine the paternity of children in certain circumstances; to allow acknowledgments, determinations, and judgments relating to paternity to be set aside in certain circumstances; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide remedies." 2012 PA 159, title.

Defendant contends that the term "nonconsensual" is limited to "uncharged conduct equivalent to CSC or evidence of conduct that would lead to a CSC charge/conviction" as directed by this Court in *Blackman*. Defendant misrepresents this Court's decision. We agreed with plaintiff's argument that a mother was not obligated to rely on a criminal conviction to establish that a child was conceived as a result of nonconsensual sexual penetration. We further clarified that clear and convincing evidence sufficient to revoke an AOP under MCL 722.1445(2) "would *include* evidence of conduct, which if charged and convicted, would lead to a CSC conviction." *Blackman*, __ Mich App at __; slip op at 12 (emphasis added). In other words, sufficient proofs include but are not limited to such conduct. Further, the Legislature chose to define "sexual penetration" as that term is defined in MCL 750.520a. If the Legislature intended to tie the definition of the term "nonconsensual" to the Michigan penal code, it could have incorporated a definition of that term as well. The plain language of MCL 722.1445(2) does not condition relief on whether the underlying conduct meets the elements to sustain a CSC charge.

It is undisputed that the child was conceived after defendant's February 12, 2018 resignation. Defendant maintains that *People v Hoffman*, 339 Mich App 65; 981 NW2d 112 (2021) established that his authority as a teacher terminated upon his resignation and thus any sexual penetration after his resignation was lawful. Defendant's reliance on *Hoffman* is misplaced. The *Hoffman* Court concluded that the defendant could not be convicted of CSC-I under MCL 750.520d(1)(e)(*i*) for a relationship that she had with a student at a school where she previously worked as a substitute teacher because she was no longer a substitute teacher at that school at the time of the alleged sexual penetration. *Id*. at 72. This Court's construction of MCL 750.520d(1)(e)(*i*) and whether the elements could be satisfied is not relevant to whether there is clear and convincing evidence that a child was conceived as a result of nonconsensual penetration so that an AOP may be revoked under MCL 722.1445(2)(a).

Defendant further argues that plaintiff failed to meet her burden of proving by clear and convincing evidence that the child was conceived as a result of nonconsensual sexual penetration.[6] We disagree. Dr. Jeglic testified that a teacher typically has an influential and authoritative role

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[5] Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/non-consensual > (accessed September 23, 2026).

[6] On appeal, defendant relies on several exhibits that were not part of the trial court record. Because these exhibits were not admitted during the evidentiary hearing, we cannot consider them on appeal. See *Sherman v Sea Ray Boats, Inc*, 251 Mich App 41, 56; 649 NW2d 783 (2002) ("This Court's review is limited to the record established by the trial court, and a party may not expand the record on appeal.").

in the life of an impressionable teenage student. The record reflects that defendant targeted plaintiff when she was living with friends, working odd jobs to provide basic necessities for herself, and did not have a trusted adult to whom she looked for guidance. Dr. Jeglic testified that a child who lacks parental support, stable housing, and financial security is vulnerable to grooming. Dr. Jeglic opined that sexual conduct after grooming is not consensual because of the psychological manipulation of the victim. Although the grooming began when defendant was a teacher at plaintiff's school, Dr. Jeglic opined that psychological manipulation does not cease to affect consent when a victim crosses a statutory age threshold or when a teacher formally resigns. She explained that it can take years, even decades, for a victim to process that they were not in a consensual relationship.

In addressing the parameters of nonconsensual conduct in the context of MCL 722.1445(2), the trial court gave considerable weight to Dr. Jeglic's expert testimony regarding grooming and a victim's inability to consent because of the psychological manipulation. The trial court also found plaintiff's testimony credible and concluded that "she fit the textbook example of a sexual abuse victim . . . ." The trial court further stated, "Defendant's actions are also textbook as to how he gained her trust, psychologically manipulated her, groomed her, and continued to do so after he resigned as a teacher." We afford special deference "to a trial court's factual findings that are based on witness credibility." *Blackman*, __ Mich App at __; slip op at 12 (cleaned up). The trial court concluded that the date of conception is not dispositive as to whether the sexual penetration was nonconsensual. The trial court stated that the conception would not have occurred if defendant had not initiated contact with plaintiff during the criminal investigation and "exerted the influence he had in an attempt to get her to recant her statements to the police and thus exonerate him." On the basis of Dr. Jeglic's testimony, the trial court concluded that defendant "was still in the position as the perpetrator" after February 20, 2018, and "was still exerting that particular influence . . . ." The record supports the trial court's finding that defendant still had an influence on plaintiff after his resignation and he preyed on her vulnerability to lure her back and coerce her to submit to sexual penetration. The trial court did not err by concluding that the actual date of conception is not dispositive and there was clear and convincing evidence that the child was conceived as the result of nonconsensual penetration.

We also find no merit in defendant's arguments that the trial court abused its discretion by denying admission of a number of his proposed exhibits, which defendant maintains were "highly relevant" to whether the sexual penetration that resulted in the conception of the child was nonconsensual. We review a trial court's decision to admit or exclude evidence for an abuse of discretion. *Kuebler v Kuebler*, 346 Mich App 633, 653; 13 NW3d 339 (2023). An abuse of discretion occurs when the trial court's decision falls outside the range of principled outcomes. *Richards v Richards*, 310 Mich App 683, 699; 874 NW2d 704 (2015). MRE 402 provides that "all relevant evidence is admissible unless provided otherwise . . . ." Under MRE 401, evidence is relevant if it has "any tendency to make a fact more or less probable than it would be without the evidence," and "the fact is of consequence in determining the action." MRE 401. Each one of the proposed exhibits involved postconception conduct and thus were not relevant to the scope of the fact-finding hearing on whether the child was conceived as the result of nonconsensual sexual penetration. Further, the trial court did not err in holding that the unauthenticated excerpts of

plaintiff's medical records, the e-mail regarding defendant's bond,[7] the messages from plaintiff,[8] and the letter written by plaintiff[9] were hearsay and thus inadmissible. See MRE 801(c); MRE 802. Defendant has not presented any argument that these exhibits were admissible under an exception to the hearsay rule, and there is nothing in the record to suggest any of the hearsay exceptions in MRE 803 were applicable. Finally, defendant waived any error regarding the admissibility of his proposed exhibits G and H by failing to move for their admission in the trial court. See *Glasker-Davis v Auvenshine*, 333 Mich App 222, 227; 964 NW2d 809 (2020).

Affirmed.

/s/ Sima G. Patel
/s/ Michael F. Gadola
/s/ Stephen L. Borrello

[7] The trial court told defendant that he could testify about the modification of his bond.

[8] The trial court told defendant that he could ask plaintiff direct questions to obtain the information.

[9] The trial court told defendant that he could ask plaintiff direct questions to establish that the child was conceived after defendant resigned. Defendant asked plaintiff if the child was conceived sometime in March 2018, and she agreed.