

No. 1-12-2188

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 CR 2620
)	
BRANDON BURNETTE,)	Honorable
)	James B. Linn,
Defendant-Appellant.)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Delort and Justice Connors concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court did not abuse its discretion in admitting other-crimes evidence at defendant's trial for the purposes of showing criminal intent, absence of mistake, and propensity to commit sexual assault. Even assuming it was error to admit the other-crimes evidence, such error was harmless.
- ¶ 2 Following a jury trial in the circuit court of Cook County, defendant Brandon Burnette was found guilty of aggravated criminal sexual assault and subsequently sentenced to 20 years of imprisonment. On direct appeal, the defendant argues that the trial court erred in admitting other-crimes evidence where the prejudicial effect of the evidence greatly outweighed its

probative value. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3

BACKGROUND

¶ 4 On February 3, 2010, the defendant was charged with multiple counts of aggravated criminal sexual assault of the victim, R.B. On April 19, 2011, the State filed a pretrial "motion to admit proof of other crimes" (motion to admit), which was supplemented in a separate motion on October 13, 2011 (supplemental motion to admit). In the motion to admit, the State sought to introduce other-crimes evidence relating to two other aggravated criminal sexual assault cases for which the defendant was charged. In the supplemental motion to admit, the State sought to introduce evidence of three additional sexual assault incidents in which the defendant's DNA matched the evidence collected in rape kits. Following a hearing, the trial court granted the State's motion to admit:

"[THE COURT]: Okay. I have read the pleadings and heard the proffers and reviewed that which has been presented at this time.

I'm mindful of the fact that other crimes evidence is extremely prejudicial all the time. It's a question of whether the probative value outweighs the prejudicial value.

[The defendant] is asserting a consent defense. I find the jury has a right to know the truth, and when it comes to things like intent, absence of mistake, and propensity, that the probative value would outweigh the prejudicial value. I think this information would be helpful to the jury in sorting through all those issues.

So the [State's] motion to use the proof of other crimes evidence will be allowed as it goes to the factors of intent, absence of mistake, and propensity.

* * *

I find it's more probative than prejudicial."

¶ 5 On June 4, 2012, a jury trial commenced. The State presented the testimony of the victim in the instant case, R.B., who testified that she was 28-year-old beauty stylist. R.B. testified that in January 2007, after dropping off her daughter at preschool, she encountered the defendant at a gasoline station at 67th Street and Eberhart Avenue in Chicago, Illinois. The defendant introduced himself to R.B. as "Trayvon," and they exchanged telephone numbers. Several days later, on January 12, 2007, R.B. called the defendant and invited him to her home, but informed him that she was not inviting him over to have sex and that she was menstruating. R.B. admitted that she smoked two marijuana joints prior to the defendant's arrival at her home. At 1:30 a.m. on January 13, 2007, the defendant arrived at R.B.'s home and they talked in her bedroom for about an hour and a half, after which R.B. told the defendant to call for a taxicab and leave. The defendant then called for a taxicab, which he missed, because he and R.B. fell asleep. Shortly thereafter, R.B. awoke and told the defendant to call for another taxicab. The defendant then kissed R.B. and she pushed him away in a playful manner. When the defendant tried to kiss R.B. again, R.B. pushed him away in a more aggressive manner and told him no. The defendant then put his hands around R.B.'s neck and started to choke her. He then punched her in the face with his fist, hitting her mouth, forehead, cheek, and jaw. The defendant then pulled down R.B.'s pants, called her a [expletive], accused her of lying to him about her menstruation, and then raped her for two minutes. After the attack, the defendant told R.B. he was sorry and left. After

the defendant left, R.B. called her grandmother. R.B.'s uncle then arrived at R.B.'s home within 20 minutes, called an ambulance, and R.B. was subsequently transported to a hospital where she received stitches to her upper lip and a rape kit assessment was performed on her. At that time, R.B. was 4 feet 11 inches tall and weighed 93 pounds. R.B. testified that almost three years later on December 10, 2009, police officers contacted her and showed her a photographic array, from which she identified a photograph of the defendant as the perpetrator. On January 13, 2010, R.B. viewed a physical lineup and identified the defendant as the person who beat and raped her. R.B. testified that, after the rape and before the defendant's arrest, she saw him once at the Fairplay grocery store but did not notify the police.

¶ 6 R.B.'s grandmother, Alma B. (Alma), testified that in the early morning on January 13, 2007, she received a telephone call from R.B. who was screaming and hysterical. Alma then gave the telephone to her son, Michael B. (Michael), who then went to R.B.'s house.

¶ 7 R.B.'s uncle, Michael, testified that on January 13, 2007, he went to R.B.'s home after she told him she had been sexually assaulted. When Michael arrived, he noticed that R.B. had been beaten about the face and there was blood running down her leg. Michael then called the police.

¶ 8 Registered nurse Patricia Madden (Nurse Madden) testified as to R.B.'s medical treatment in the emergency department at the University of Chicago Hospital. She stated that R.B. had lacerations to her face, swollen lips and dried blood on her face. At trial, Nurse Madden identified photographs depicting R.B.'s injuries, and stated that R.B. needed stitches to her lip. Vaginal swabs from a rape kit were performed on R.B., which were then turned over to the police. R.B. informed Nurse Madden at the hospital as to how she was attacked, which resembled the version of events that R.B. had testified to at trial.

¶ 9 Evidence was also presented at trial that the vaginal swabs taken from R.B. tested positive for the presence of semen. The results of DNA testing of R.B.'s vaginal swabs matched the defendant's DNA profile that was created from his buccal swab.

¶ 10 Chicago Police Officer Carolyn Okon (Officer Okon) testified that she interviewed R.B. several days after the sexual assault incident. R.B. gave Officer Okon the telephone number for "Trayvon," but Officer Okon was unable to obtain any subscriber information for the number. Officer Okon was also unable to locate the taxicab driver who was dispatched to R.B.'s home on the morning of the incident.

¶ 11 Although the trial court, during pretrial proceedings, had granted the State's motion to admit into evidence other aggravated criminal sexual assault incidents involving the defendant, the State elected to present only one of these other-crimes incidents against the defendant at trial. The trial court first instructed the jury that the next witness would testify that the defendant was involved in an offense other than the one charged in the instant case. Specifically, the trial court informed the jury that "[t]his will be received on the issues of the [d]efendant's intent, absence of mistake, and propensity, and it may be considered by you only for that limited purpose. It is for you to determine whether the [d]efendant was involved in that offense, and if so, what weight should be given to this evidence on the issues of intent, absence of mistake, and propensity."

¶ 12 T.W. testified that she was 24 years old and that in the early morning hours of December 8, 2008, she and her partner were driving in a vehicle when they got into an argument and, as a result of the argument, T.W. exited the car and started to walk. T.W. testified that she initially told the police that she had exited a bus because she did not want to disclose that she was a lesbian. As she walked, a man suddenly grabbed her from behind, put one hand around her front, and dragged her backwards into a house. T.W. identified the defendant in court as the

perpetrator. T.W. testified that after the defendant dragged her into the house, he pointed a gun at her and stripped off her clothes. The defendant then pushed T.W. onto her knees and forced her to perform oral sex on him. Then defendant then put his penis into her vagina. After the rape, the defendant ordered T.W. to get into a closet and count to 100. T.W. complied and then ran to a nearby gasoline station to call the police after the defendant left. T.W. testified that, on January 21, 2010, she identified the defendant in a photographic array as the person who raped her in 2008.

¶ 13 The State then rested and the trial court denied the defendant's motion for directed verdict.

¶ 14 The defendant testified in his own defense that he had consensual sex with both R.B. and T.W., but that he did not sexually assault either victim. With regard to R.B., the defendant testified that he "met" her on a telephone party chat line and she invited him to her home that same night. In R.B.'s bedroom, they started to "conversate" and both smoked marijuana and drank alcohol. After about two hours of smoking and drinking, R.B. seduced the defendant and they engaged in consensual sex. After sex, R.B. demanded \$100 from the defendant, who refused to pay. The defendant testified that R.B. had no lacerations on her face when he left her home. The defendant denied punching her in the face, denied choking her, and denied that she had any injuries to her face. At trial, the defendant was shown photographs depicting the injuries to R.B.'s face, but the defendant denied that she had those injuries at the time he left. The defendant claimed that he had never been to the Fairplay grocery store. In June 2008, the defendant "met" R.B. on the party chat line again, after which R.B. and the defendant engaged in consensual intercourse at the defendant's mother's home. After this second sexual encounter, R.B. informed the defendant that she was having financial trouble. In response, the defendant

gave her \$25. The defendant testified that he was arrested in January 2010 and thereafter charged with the sexual assault of R.B. and T.W. The defendant also claimed that, in December 2008, he had consensual sex with T.W., whom he claimed he met on Craigslist. He testified that T.W. solicited sex for money.

¶ 15 In rebuttal, the State presented the testimony of Officer Okon, who testified that, on January 13, 2010, she spoke with the defendant about the sexual assault of R.B. Detective Radjenovich was also present for the interview. Initially, the defendant denied any involvement with the crime, but later admitted that he had sex with R.B. and that R.B. told him he owed her \$50 in exchange for sex. The defendant claimed that he knew R.B. by the name of "Sherry," that he used a condom during the sexual encounter, and that R.B. stated that she was going to call the police. During the interview, the defendant never stated that R.B. seduced him and denied that he had sex with R.B. at a second encounter.

¶ 16 Assistant State's Attorney Craig Engebretson (ASA Engebretson) testified that on January 13, 2010, he conducted an interview with the defendant in the presence of Officer Okon and Detective Radjenovich. ASA Engebretson advised the defendant of his *Miranda* rights, which the defendant waived and agreed to speak to him. The defendant informed ASA Engebretson that he had unprotected sex with R.B. on January 13, 2007, and that R.B. demanded \$50 from him after the sexual encounter. The defendant denied that he had sex with R.B. on a second occasion.

¶ 17 Following closing arguments, the jury found the defendant guilty of aggravated criminal sexual assault.

¶ 18 On June 12, 2012, the defendant filed a motion for a new trial. On July 11, 2012, the trial court denied the defendant's motion for a new trial and sentenced him to 20 years in prison. On

that same day, July 11, 2012, the trial court denied the defendant's motion to reconsider the sentence.

¶ 19 On July 11, 2012, the defendant filed a timely notice of appeal; accordingly, this court has jurisdiction to hear this matter.

¶ 20 ANALYSIS

¶ 21 The sole issue before us on appeal is whether the trial court erred in admitting other-crimes evidence against the defendant, which we review under an abuse of discretion standard. See *People v. Raymond*, 404 Ill. App. 3d 1028, 1044 (2010). A trial court abuses its discretion only when its ruling is arbitrary, fanciful, or where no reasonable person would take the view adopted by the trial court. *Id.* at 1044-45.

¶ 22 The defendant argues that the trial court erred in admitting other-crimes evidence against the defendant, where the prejudicial effect of the evidence greatly outweighed the probative value. Specifically, he contends that the instant offense against R.B. and the other-crimes evidence regarding the criminal sexual assault of T.W. occurred almost two years apart, which he claims was too remote in time, and that the two offenses lacked similarity. The defendant argues that the admission of the other-crimes evidence unduly prejudiced him, and requests a new trial on this basis.

¶ 23 The State counters that the trial court properly admitted the other-crimes evidence at trial, where the evidence was admissible to show the defendant's propensity to commit sex crimes, as well as to show intent and absence of mistake in order to refute the defendant's claim that the sexual encounters were consensual. The State argues that there were many similarities between the two offenses, including the fact that the defendant committed sudden and unprovoked attacks on his victims.

¶ 24 Generally, evidence concerning other crimes is inadmissible to demonstrate a propensity to commit a crime. *People v. Donoho*, 204 Ill. 2d 159, 170 (2003). "The evidence is not considered irrelevant; rather, it is considered to be too likely to persuade the jury to convict the defendant based on his past bad behavior." *Raymond*, 404 Ill. App. 3d at 1045, citing *People v. Childress*, 338 Ill. App. 3d 540, 548 (2003). The Illinois legislature made an exception to the common law bar against the use of other crimes evidence to show propensity in the case of certain sexual crimes. Section 115-7.3 of the Code of Criminal Procedure of 1963 (the Code) states in pertinent part that when the defendant is accused of aggravated criminal sexual assault, "evidence of the defendant's commission of another offense or offenses *** may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant." 725 ILCS 5/115-7.3 (West 2012).

¶ 25 Our supreme court has held that this statute allows courts to admit evidence of other crimes to show the defendant's propensity to commit sex offenses. *Donoho*, 204 Ill. 2d at 176. Other crimes evidence is admissible to prove certain facts, such as "intent, *modus operandi*, identity, motive, [and] absence of mistake," but may still be excluded if the prejudicial effect of the evidence substantially outweighs its probative value." *Id.* at 170. Where other-crimes evidence meets the preliminary statutory requirements, the evidence is admissible if it is relevant and if its probative value is not substantially outweighed by its prejudicial effect. *Id.* at 182-83. The key to balancing the probative value of propensity other-crimes evidence against its possible prejudicial effects, is to avoid admitting evidence that entices a jury to find the defendant guilty "only because it feels he is a bad person deserving punishment." (Emphasis in original.) *Childress*, 338 Ill. App. 3d at 548. In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider "(1) the proximity in time to the

charged or predicate offense; (2) the degree of factual similarity to the charged or predicate offense; or (3) other relevant facts and circumstances." 725 ILCS 5/115-7.3(c) (West 2012).

¶ 26 In the case at bar, prior to trial, the trial court granted the State's motion to admit other-crimes evidence, finding it more probative than prejudicial to allow the evidence of other alleged sexual assaults involving the defendant to be introduced at trial for the purposes of showing intent, absence of mistake, and propensity. The trial court explained that because the defendant was asserting a defense of consent, the jury "has a right to know the truth" and "this information would be helpful to the jury in sorting through all those issues."

¶ 27 We find that the trial court did not err in admitting other-crimes evidence against the defendant at trial. The first factor in balancing the probative and prejudicial value of the other-crimes evidence—proximity in time—weighed in favor of admission. The time between the sexual assault of the victim in the instant case, R.B., and the subsequent alleged sexual assault of T.W., was almost two years. There is no bright-line rule about when a crime is too distant in time to be admitted; instead, the proximity in time must be evaluated on a case-by-case basis and is a factor in determining the other crime's probative value. *Donoho*, 204 Ill. 2d at 183-84. In this case, the less than two-year lapse between the sexual assault of R.B. and the alleged sexual assault of T.W. was not too distant in time to be admissible under section 115-7.3 of the Code (725 ILCS 5/115-7.3(c) (West 2012)). See *Raymond*, 404 Ill. App. 3d at 1047 (finding a four-year lapse between the offenses to not be too remote in time to be admissible). The defendant argues that the nearly two-year lapse between the two offenses was not proximate in time, and cites *People v. Johnson*, 406 Ill. App. 3d 805 (2010), for support. We find the defendant's reliance on *Johnson* to be inapposite where, there, the *Johnson* court found that the other-crimes evidence was improperly admitted, on the bases that significant dissimilarities existed between

the two sexual assaults and the trial court failed to conduct any sort of "meaningful" analysis of the prejudicial effect of the other-crimes evidence, rather than on the basis that the 20-month period between the two offenses was too remote in time. See *id.* at 812. Thus, we cannot conclude that the defendant is entitled to relief on this basis.

¶ 28 The second factor to be considered in the balancing test is the degree of factual similarity between the two crimes. See 725 ILCS 5/115-7.3(c) (West 2012). In order for other-crimes evidence to be admissible, there must be some "threshold similarity" to the charged crime. *Donoho*, 204 Ill. 2d at 184. If the other-crimes evidence is being used to show *modus operandi* or that the charged offense was part of a common scheme or design, the level of similarity between the charged offense and the other crime must be high; "[t]he two offenses must share such distinctive common features as to earmark both acts as the handiwork of the same person." *People v. Illgen*, 145 Ill. 2d 353, 372-73 (1991). If, however, the evidence is being used for some other purpose, such as the absence of an innocent frame of mind or the presence of criminal intent, "mere general areas of similarity will suffice" for the evidence to be admissible. *Id.* at 373; *Donoho*, 204 Ill. 2d at 184 (the use of other-crimes evidence to show propensity allowed by section 115-7.3 requires only "mere general areas of similarity" between the past offense and the charged offense to be admissible). Additionally, because "no two independent crimes are identical," the presence of some differences does not defeat admissibility. *Donoho*, 204 Ill. 2d at 185. However, an increase in factual similarity leads to an increase in the probative value of the other-crimes evidence. *Id.* at 184.

¶ 29 The defendant argues that the second factor of the balancing test—the degree of factual similarity—did not weigh in favor of admission of the other-crimes evidence. In support of this argument, he enumerates several differences between the sexual assault of R.B. and the sexual

assault of T.W.—such as R.B.'s acquaintance with the defendant compared to T.W.'s attack by a complete stranger; R.B.'s attacker was not armed while T.W.'s attacker was armed with a gun; R.B.'s sexual assault involved only vaginal intercourse, while T.W.'s sexual assault involved both oral and vaginal intercourse; and R.B.'s attacker apologized after the assault, whereas T.W.'s assailant showed no remorse. The defendant again cites *Johnson* for support.

¶ 30 The State argues that there were many similarities between the two offenses, such as the "sudden and unprovoked attacks" on the victims; the defendant's use of force during the attacks; the vaginal penetration of both victims; the sexual assaults of the victims from a frontal position; derogatory name-calling of the victims during the assaults; and the ejaculation of the defendant's semen into the victims.

¶ 31 In *Donoho*, our supreme court found that the trial court did not abuse its discretion in admitting other-crimes evidence for propensity purposes, where the defendant's prior 1983 conviction for indecent liberties with a child and the charged offense bore factual similarities: both incidents involved children in the same age range; both incidents reflected inclusion of children of both genders; both incidents involved the defendant inserting his finger in the girl's vagina; both incidents involved the defendant forcing both the boy and the girl to touch his penis. *Donoho*, 204 Ill. 2d at 185. The *Donoho* court found that the other-crimes evidence was more probative than prejudicial, despite differences such as: in one case the defendant had no relationship to the children while in the other he was their stepfather; in one case there was a single incident while in the other there were several incidents spanning three years; one case involved a boy and a girl at the same time while in the other, conduct occurred with them separately; and in one case the defendant told the children they were playing a game while in the other case he threatened to ground them if they told anyone. *Id.* at 185.

¶ 32 Like *Donoho*, factual similarities existed between the sexual assault of the victim in the case at bar, R.B. and the sexual assault of T.W. Both involved attacks on adult women in their early 20s by a single perpetrator; both involved the use of physical force in raping the victims; both involved stripping off the victim's clothes prior to the assault; and both involved the penetration of the victim's vagina with his penis. Although the defendant argues that the "use of force or threat of force" and "penetration" are elements of the crime, we find that this does not mean that these facts cannot be considered in analyzing the similarity of the crimes. See *Raymond*, 404 Ill. App. 3d at 1051 (although penetration and the minority of the victims are elements of the crime, these factors may be used in analyzing the similarity of the crimes). Moreover, while there are some differences between the two assaults, as the defendant points out, we do not find these differences to be significant. Because the other-crimes evidence of T.W.'s testimony was not admitted to show *modus operandi*—but rather criminal intent, absence of mistake and propensity—"mere general areas of similarity" are sufficient for the evidence to be admissible. See *Donoho*, 204 Ill. 2d at 184; *Illgen*, 145 Ill. 2d at 373.

¶ 33 We further find the defendant's reliance on *Johnson* to be unpersuasive with regard to the second factor in weighing the probative value and the prejudicial effect of the other-crimes evidence. In *Johnson*, the defendant raised a consent defense at trial. *Johnson*, 406 Ill. App. 3d at 810. The reviewing court found that there were both general factual similarities and distinct differences between the criminal sexual assault against the defendant in that case and in a separate uncharged assault. *Id.* at 811. Specifically, the *Johnson* court noted that general similarities between the two offenses included: (1) both victims were abducted while walking past alleys; (2) both victims were taken to an abandoned building before being assaulted; (3) the assailant used physical force and threatened to kill both victims if they did not comply with his

demands; (4) the defendant vaginally and orally penetrated both victims with his penis; and (5) both victims were adults when the assaults occurred. *Id.* at 811. However, the *Johnson* court held that the trial court erred in admitting the other-crimes evidence to establish the defendant's propensity to commit sexual offenses, because there were significant dissimilarities between the two assaults—including the number of perpetrators in each assault; and the fact that the attacker in only one of the assaults used a car during the attack, blew cocaine into the victim's face, gave the victim alcohol during the assault, and anally raped the victim. The *Johnson* court noted that these significant dissimilarities, *combined with* the trial court's failure to conduct an assessment of the prejudicial effect of the other-crimes evidence, resulted in an abuse of discretion in admitting propensity other-crimes evidence. *Id.* at 811-12. We find that the significant differences present in *Johnson* and the concern about the trial court's failure to consider the prejudicial effect of the other-crimes evidence in *Johnson*, are absent in the case at bar. Thus, we find that the second statutory factor—the degree of factual similarity to the charged offense—weighed in favor of the admission of T.W.'s testimony as other-crimes evidence.

¶ 34 The third and final factor in balancing the probative value and the prejudicial effect of the other-crimes evidence includes "any other relevant facts and circumstances." See 725 ILCS 5/115-7.3(c) (West 2012). We find that the trial court, during the hearing on the State's pretrial motion to admit, explicitly recognized that other-crimes evidence "is extremely prejudicial all the time" and the relevant inquiry was "whether the probative value outweigh[ed] the prejudicial value." We further find that, although the trial court allowed the State to introduce other-crimes evidence of more than one incident of sexual assault, the State limited the amount of other-crimes evidence presented to the jury at trial by only presenting T.W.'s testimony—thereby reducing the possible prejudicial effect of such evidence upon the defendant. Further, based on

our review of the record, we find that the other-crimes evidence was not presented in a way that the jury would tend to convict the defendant on the sole basis that he was a bad person deserving punishment. See *People v. Boyd*, 366 Ill. App. 3d 84, 94 (2006) (other-crimes evidence, though relevant, must not become a focal point of the trial). In the instant case, the evidence of the other alleged sexual assault was not presented in such a way as to be the focal point of the evidence against defendant. Thus, after considering the three balancing factors under section 115-7.3 of the Code, we cannot conclude that no reasonable person would take the view adopted by the trial court, specifically, that the probative value of the other-crimes evidence outweighed its prejudicial effect. Accordingly, we hold that the trial court did not abuse its discretion in admitting the other-crimes evidence at trial.

¶ 35 Even assuming, *arguendo*, that the trial court erred in admitting T.W.'s testimony at trial, we find such error to be harmless. "Improper introduction of other-crimes evidence is harmless error when a defendant is neither prejudiced nor denied a fair trial based upon its admission." *Johnson*, 406 Ill. App. 3d at 818 (finding trial court's error in admitting other-crimes evidence as harmless, where the outcome of the trial would not have been different in the absence of the other-crimes evidence).

¶ 36 The defendant argues that the error in admitting other-crimes evidence at trial was not harmless, where the nature of his consent defense made "criminal propensity" a major issue at trial and the State increased the prejudicial effect of the other-crimes evidence by making it a key focus at trial. He contends that because T.W.'s attacker threatened her with a gun during the assault, there was a substantial risk that the jurors were unduly prejudiced against the defendant in the instant case with regard to the sexual assault of R.B. The defendant further contends that the evidence against him was not overwhelming, and the trial court's limiting instructions to the

jury regarding the other-crimes evidence did not cure the trial court's error in admitting the other-crimes evidence.

¶ 37 The State counters that any error committed by the trial court in admitting other-crimes evidence was harmless because it did not affect the outcome of the trial, where the evidence against the defendant was overwhelming.

¶ 38 We find that, even assuming that the trial court erred in admitting other-crimes evidence at trial, such error was harmless. R.B. testified in detail at trial as to how the defendant, whom she had positively identified at a physical lineup and a photographic array, sexually assaulted her. Medical evidence presented at trial, including photographs of R.B.'s bloodied face and lip requiring stitches at the hospital, corroborated her testimony. The jury also heard testimony from R.B.'s grandmother, Alma, and R.B.'s uncle, Michael, who testified that R.B. called Alma shortly after the assault and was screaming and hysterical. R.B. also recounted to Michael the events that had occurred. Michael testified that, on that same day, he went to R.B.'s home and observed that she had been beaten about the face and that there was blood running down her leg. The jury also heard the testimony of Nurse Madden, who testified that, at the hospital after the assault, R.B. described to her how the attack occurred. Nurse Madden testified that R.B. had lacerations to her face, swollen lips and dried blood on her face, that R.B. also needed stitches to her lip, and that vaginal swabs from a rape kit were performed on R.B. at the hospital. Evidence was also presented at trial that swabs taken from R.B.'s vagina tested positive for the presence for semen, which matched the defendant's DNA profile. We find that, even had T.W.'s testimony not been presented as other-crimes evidence at trial, the outcome of the trial would not have been different. Based on R.B.'s testimony, the testimony of Alma, Michael and Nurse Madden, combined with the medical evidence of the injuries to R.B.'s face, a rational trier of fact could

have found that the sexual intercourse was not consensual and took place by force against R.B.'s will. Given the strength of the evidence presented against the defendant, combined with the fact that our review of the record shows that the State did not put undue emphasis on the other-crimes evidence during its closing arguments, we cannot say that the outcome of the trial would have been different had T.W.'s testimony been excluded. Therefore, even assuming that the trial court erred in admitting T.W.'s testimony as other-crimes evidence, such error was harmless.

¶ 39 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 40 Affirmed.