

different types of penetration over a period of time. The indictment alleged, in pertinent part, that "between April 1, 1989 and January 31, 1990" the defendant

"did knowingly engage in a course of conduct of sexual penetration with a person, not his legal spouse, who was thirteen (13) years of age or older and under sixteen (16) years of age and was related to the other person by blood; in that, Lee Demond did engage in sexual intercourse, by putting his penis into the vagina, cunnilingus and digital penetration, by placing his finger into the vagina, with a female juvenile . . . , said female juvenile being his daughter"

The defendant moved for a bill of particulars, arguing "that the defendant [must] know to a more exacting time, when said alleged conduct happened in order to prepare a proper defense." No record exists of a hearing, if one occurred, on the motion, which the trial court denied.

"The exact date of the assault is not an element of the aggravated felonious sexual assault crime." *State v. Tynan*, 132 N.H. 461, 464, 566 A.2d 1142, 1143 (1989). "Where no defense is possible on the basis of the victim's age, or the statute of limitations, a defendant generally has no basis for complaining that the indictment fails to allege a precise date, absent a showing that the inexactness raises a possibility of prejudice specific to him." *State v. Lakin*, 128 N.H. 639, 640, 517 A.2d 846, 847 (1986).

■ The defendant, in his motion, made no specific claim of need for the exact date in order to avoid prejudice, nor does he on appeal. He asserted below only a generalized need for "a more exacting time . . . in order to prepare a proper defense." This does not meet the requisite "showing that the inexactness raises a possibility of prejudice specific to him." *Id.*

■ The defendant in his brief also argues that an allegation of the exact date was necessary in order to protect him against double jeopardy arising from a future prosecution. Nothing in his motion for a bill of particulars, however, mentions a double jeopardy concern. If more was presented to the trial court at a hearing on his motion, it has not come before us. "The defendant's burden in this court is to provide us with a record upon which relief may be granted." *State v. Hale*, 136 N.H. 42, 46, 611 A.2d 630, 632 (1992). Not having demonstrated that he raised this issue below, the defendant is precluded from obtaining appellate review. See *Reynolds v. Cunningham*, 131 N.H. 312, 314-15, 556 A.2d 300, 302 (1988).

