COURT OF APPEALS
DECISION
DATED AND FILED

December 12, 2007

David R. Schanker
Clerk of Court of Appeals

Appeal Nos. 2006AP2241
2006AP2242

Cir. Ct. Nos. 2003CF400
2004CF54

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT II

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

LESLIE L. LUCHINSKI,

DEFENDANT-APPELLANT.

APPEAL from judgments and an order of the circuit court for Fond du Lac County: DALE L. ENGLISH, Judge. *Affirmed*.

Before Brown, C.J., Anderson, P.J., and Nettesheim, J.

¶1 PER CURIAM. A jury convicted Leslie L. Luchinski of first-degree sexual assault of a child (Hailey L.) contrary to WIS. STAT. § 948.02(1) (2003-04)[1] and three counts of repeated sexual assault of the same child (Joseph L., Molly L. and Cassie B.) contrary to WIS. STAT. § 948.025(1)(a) (2003-04). The circuit court denied Luchinski's postconviction motion seeking a new trial due to ineffective assistance of trial counsel, newly discovered evidence and the erroneous admission of other acts evidence. We conclude that Luchinski was not prejudiced by trial counsel's performance, the proffered evidence was not newly discovered, and the other acts evidence was properly admitted at trial. Therefore, we affirm the judgments of conviction and the order denying the postconviction motion.

Trial Testimony

¶2 Officer Michael Nalley, a city of Fond du Lac police officer, testified that he was a school resource officer assigned to three Fond du Lac schools and that he has been trained to interview children. Nalley knew Molly before the Luchinski allegations arose because he had spoken to her in relation to sexual assault allegations involving another adult, Cassie's father. In the course of an interview relating to Cassie's father, Molly unexpectedly revealed that she had had sexual contact with Luchinski. Thereafter, Molly described various aspects of sexual contact and intercourse with Luchinski and with Cassie's father. Molly described the differences in appearance between the genitals and pubic hair of

[1] All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

Luchinski and Cassie's father. The men's wives confirmed Molly's descriptions when they testified.

¶3 Six-year-old Molly testified that she told Nalley that some of her friends were touching her private parts and that Luchinski had a secret which she was not supposed to share. Molly stated that she told Nalley that Luchinski touched her on her bottom and put his mouth and hands on her private part (which she could not define), but she did not have to touch Luchinski's private part. Using a drawing, Molly identified the area of her private part as the figure's vaginal area. Molly also testified that Luchinski put his private part into her mouth and up against her vaginal area. Using a drawing, Molly identified Luchinski's private part as his penis. On cross-examination, Molly testified that only her same-age friends had touched her sexually; she denied that she had a secret or that Luchinski had touched her private part.

¶4 Joseph, who was in seventh grade during the 2004 trial, testified that he was forced to perform oral sex on Luchinski and have other sexual contact with him. Luchinski threatened to hurt him if he did not comply with Luchinski's demands or remain quiet about the assaults; at one point, Luchinski brought a knife into the living room, which Joseph perceived as a threat. Joseph told a young relative, Ben O., about the assaults. Ben told Nalley, and Nalley then approached Joseph and took a statement from Joseph. On cross-examination, Joseph testified that his testimony about what he told Nalley would be his trial testimony about the assaults. Defense counsel impeached Joseph with his preliminary examination testimony during which he did not recall Luchinski having contact with his penis.

¶5 Fourteen-year-old Ben testified that Joseph told him five years ago that Luchinski was having sexual contact and oral intercourse with him and that Joseph was afraid of Luchinski. Ben saw Luchinski threaten Joseph on another occasion. Ben did not tell anyone at that time; he told Nalley in September 2003.

¶6 Molly's mother testified that in 2003, while she was bathing Molly, she noticed redness and irritation in her vaginal area. She did not report any suspicions or concerns.

¶7 Cassie's mother testified that Cassie slept at Luchinski's home, and she was aware that Cassie claimed that Luchinski had sexual contact with her. Nalley testified that he first spoke with Cassie about allegations of sexual contact among children and that it was in the course of that investigation that Cassie revealed that Luchinski had had sexual contact with her and Molly.

¶8 Nine-year-old Cassie testified that she was a friend of Molly and she had slept over at Luchinski's house on one or two occasions. She told Nalley about things Luchinski did, but she did not recall what she told Nalley and she did not recall if Luchinski had sexual contact with her. Cassie described Luchinski's penis, but she denied that penis-vagina contact occurred although she told Nalley that she had oral contact with Luchinski's penis. Later, Cassie told Nalley that there had been penis-vagina contact.

¶9 Hailey's mother testified that Hailey slept over at Luchinski's house on one occasion in the summer of 2003. The next day, Hailey ran screaming and crying out of the house toward her father, and she told her mother that she did not want to go to Luchinski's house anymore. On the way home from an October

2003 counseling session, Hailey told her mother that Luchinski had touched her. Hailey demonstrated that Luchinski had penetrated her vagina with his fingers.

¶10 Five-year-old Hailey testified that she did not sleep over at Molly's house and nothing bad happened to her there. Hailey remembered leaving Molly's house and telling her mother that she did not want to go back there, but she did not tell her mother why she did not want to go back there. Nalley never interviewed Hailey.

¶11 Sharon Burns, a long-time Fond du Lac County Department of Social Services social worker and child sexual abuse investigator, interviewed Hailey about sexual contact with Luchinski. Hailey told her about the sleepover incident at Luchinski's home when he tiptoed over and inserted his fingers into her vagina. Burns testified that a child sometimes has problems testifying or cannot recall facts at trial because the courtroom setting is intimidating, the child may have been directed not to disclose the events by the perpetrator, the perpetrator may have been a loved one in a trust relationship with the child, or the child may believe that the sexual aspect of the relationship is appropriate. On cross-examination, Burns stated that it was unusual for a young child to testify in complete conformity with statements made during an investigation. On redirect, Burns testified that Hailey did not appear to have a motive for accusing Luchinski of sexual contact and did not manifest any dislike for Luchinski.

¶12 Dr. Judy Guinn, a pediatrician, testified that she performs medical evaluations on alleged child victims of sexual and physical abuse and that she has performed approximately 3000 examinations over ten years. Dr. Guinn examined Molly on September 25, 2003, a month after the last incident of abuse, and her genital area appeared normal. However, a finding of normal genital tissues in an

alleged child sexual assault victim is not unusual. In the majority of cases Dr. Guinn evaluates and that are reviewed in the literature, child sexual assault victims lack abnormal findings or genital injuries on examination due to the resiliency of the genital area and the rapid rate at which minor genital injuries heal.[2] In addition, many forms of sexual contact (e.g., touching or acts that do not involve the genitals) do not result in injury, and even penetration by a penis or a finger may not leave an injury.

¶13 As part of the other acts evidence offered by the State, Valerie L. testified that Luchinski had anal intercourse with her in the 1970s when she was between six and ten years old. Luchinski is nine years older than Valerie. She told a counselor at school about the incidents; the police never became involved. In response to a question about other incidents of sexual contact, Valerie responded that "there was so much abuse … that I don't remember clearly who was doing what at the time." She gave a statement to the police about the assaults in 1985 during an investigation into Luchinski's sexual contact with Tanya L.

¶14 Lori L. also provided other acts evidence. She testified that Luchinski had sexual contact and intercourse with her during the time she was ten to thirteen years old. Lori reported the abuse to social workers, but she did not think the social workers believed her. Luchinski later had sexual contact with her daughter, Tanya, when her daughter was four or five years old. Luchinski was convicted in the latter incident.

[2] Dr. Guinn relied, in part, upon her experience with child sexual assault victims who had sexually transmitted diseases or who had been photographed being sexually penetrated but exhibited no signs of trauma to the genital area.

¶15 Lori's daughter, Tanya, also offered other acts evidence. She testified that when she was five years old, Luchinski promised her a bag of M&M candies in exchange for oral sex. She performed the act and then told her mother what happened because Luchinski did not give her the candy as promised. Luchinski was convicted in that incident.

¶16 Luchinski testified and denied all of the alleged sexual contact with all of the children. The jury convicted Luchinski. Postconviction, Luchinski sought a new trial because trial counsel was ineffective, Luchinski had newly discovered evidence, and the circuit court erroneously admitted other acts evidence. The circuit court denied Luchinski's postconviction motion.

Ineffective Assistance of Trial Counsel

¶17 On appeal, Luchinski asserts the following instances of ineffective assistance by trial counsel: (1) trial counsel failed to present expert testimony to show that Nalley's interview techniques were flawed, (2) trial counsel failed to play a videotape of an interview with Molly, and (3) trial counsel failed to present an expert to counter Dr. Guinn's testimony about her findings after she examined Molly.

¶18 To prevail on his ineffective assistance of counsel claim, Luchinski must satisfy the two-part test articulated in ***Strickland v. Washington***, 466 U.S. 668, 687 (1984): deficient performance by counsel and resultant prejudice. ***Id.***; ***State v. Taylor***, 2004 WI App 81, ¶13, 272 Wis. 2d 642, 679 N.W.2d 893. "To prove deficient performance, the defendant must identify specific acts or omissions of counsel that fall 'outside the wide range of professionally competent assistance.'" ***Taylor***, 272 Wis. 2d 642, ¶13 (citation omitted). To prove prejudice,

"the defendant must show that 'there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.'" ***State v. Thiel***, 2003 WI 111, ¶20, 264 Wis. 2d. 571, 665 N.W.2d 305 (citation omitted).

¶19 We will uphold the circuit court's findings of fact relating to counsel's performance unless they are clearly erroneous. ***Taylor***, 272 Wis. 2d 642, ¶14. However, whether counsel's performance was deficient and prejudicial to Luchinski's defense presents a question of law that we review de novo. ***Id.***

(a) Interview Techniques

¶20 Luchinski argues that trial counsel was ineffective because he did not present expert evidence that Nalley's interviews with the child victims were suggestive and did not follow "accepted child interviewing protocol."[3] Postconviction, Dr. Marc Lindberg, a psychiatry professor, testified about the methods of interviewing children and criticized Nalley's technique. Trial counsel conceded that he did not seek out an expert such as Dr. Lindberg to evaluate the interview techniques used by Nalley. Although the circuit court agreed that trial counsel was deficient in this regard, the court concluded that Luchinski was not prejudiced by this deficient performance.

[3] In his appellant's brief, Luchinski sets forth numerous criticisms of Nalley's interview techniques. We need not address each of these criticisms because we conclude that even if they were problematic, Luchinski was not prejudiced by counsel's failure to present expert testimony criticizing these techniques.

¶21 In reaching its conclusion that Luchinski was not prejudiced, the circuit court found that Nalley first learned of the sexual assault allegations from a school principal. Nalley spoke to those children identified by the principal and then pursued the investigation where it led. The children's reports of abuse were relatively consistent, and Nalley's investigation did not generate baseless abuse reports. Although Dr. Lindberg testified that repeatedly interviewing children can lead children to repeat at trial what they told the interviewer, the court found that the children did not repeat at trial exactly what they told Nalley. Nalley testified about the interview training he received and the protocols he used, and trial counsel challenged the interview techniques during trial. Finally, the court found that even if there were interview improprieties, they did not occur with the children who were the alleged victims in Luchinski's case.[4]

¶22 The court also considered that the evidence against Luchinski was overwhelming and the trial was fair. The jury heard the victims, the interviewers and their training and interview techniques, and evidence that favored Luchinski. The court concluded that expert testimony about the alleged interview improprieties would not have raised a reasonable doubt with the Luchinski jury.

¶23 We agree with the circuit court that Luchinski was not prejudiced by his trial counsel's failure to present an expert to address Nalley's interview techniques. In addition, evidence of the victims' accusations was before the jury in forms other than Nalley's testimony about his interviews with the victims. Joseph testified about the abuse by Luchinski, and Ben confirmed that Joseph told him of the abuse. Evidence of abuse of Hailey came in through her mother and

[4] The alleged improprieties occurred in relation to another case.

Sharon Burns. Evidence of abuse of Molly came in through the testimony of her mother that Molly complained that her bottom hurt and her vaginal area was red. Evidence of abuse of Cassie came in when Cassie testified that she told Nalley of Luchinski's contact with her. Our confidence in the outcome is not undermined by counsel's failure to present expert testimony to challenge Nalley's interview technique.

(b) Videotape

¶24 Luchinski complains that his trial counsel failed to play a videotape of an interview with Molly. Trial counsel testified that he decided not to offer the videotape into evidence because although Molly did not make any allegations against Luchinski in the videotape, she did affirm that her previous statements to Nalley about sexual abuse by Luchinski were true. Counsel determined that the videotape would not help Luchinski's defense and that it might be harmful given Molly's affirmation of her earlier statements.

¶25 The circuit court concluded that trial counsel was not deficient in this regard. We agree. The court found that Molly's responses and demeanor during the interview would have enhanced her credibility for the jury and presenting the interview would not have helped Luchinski's defense. "A strategic trial decision rationally based on the facts and the law will not support a claim of ineffective assistance of counsel." ***State v. Elm***, 201 Wis. 2d 452, 464-65, 549 N.W.2d 471 (Ct. App. 1996).

(c) Medical Evidence

¶26 Luchinski contends that his trial counsel should have presented an expert to counter Dr. Guinn's testimony about Molly's medical examination, i.e.,

such an expert could have suggested to the jury that Dr. Guinn did not find genital trauma because there was no sexual abuse. Trial counsel did not recall considering whether to present such an expert.

¶27 Dr. Robert Fay, a retired pediatrician, testified postconviction that he has experience and training in evaluating children who claimed sexual abuse. Dr. Fay was asked to offer an opinion assuming the following facts: Luchinski penetrated Molly with his penis one month before Dr. Guinn examined her.[5] Dr. Fay opined that he would expect to see genital injuries under these circumstances, but it was not as routine to see injuries with digital penetration. Dr. Fay testified that the studies showing no injury with sexual abuse are not necessarily studies involving penetration and that the absence of genital injury to Molly could also be consistent with no penetration having occurred. Dr. Fay opined that the vaginal redness and discharge Molly's mother noticed could have been an infection rather than the result of sexual abuse.

¶28 On cross-examination, Dr. Fay agreed that Dr. Guinn thoroughly examined Molly. Dr. Fay conceded that the degree and amount of genital injury would be reduced if penetration either barely occurred or did not occur. Dr. Fay acknowledged that studies have shown that even with digital penetration, eight out of thirteen victims exhibited no genital injuries. Dr. Fay also agreed that it is common in sexual abuse cases not involving penetration not to find injuries.

¶29 The circuit court concluded that Luchinski was not prejudiced by counsel's failure to present expert testimony evidence such as that offered by Dr.

[5] Molly testified that Luchinski placed his penis next to her vagina; she did not testify that penetration occurred.

Fay because the evidence would not have yielded a different result at trial. Dr. Guinn testified that the vast majority of child sexual assault cases feature victims who do not have genital injuries or abnormalities upon examination, a genital tear in a child can heal within weeks, and even in cases of confirmed penetration, her examination has not revealed genital trauma. The court noted that Dr. Fay never examined Molly and did not question Dr. Guinn's examination of Molly. Trial counsel argued in his closing argument that the lack of injury was inconsistent with a claim of penetration. The significance of Dr. Guinn's examination was before the jury. However, because Molly also alleged that Luchinski engaged in other sexual contact with her that did not involve penetration of her vagina, Luchinski's challenge to the medical evidence could only go so far. The circuit court's confidence in the outcome of the trial was not undermined by trial counsel's failure to present the type of evidence offered by Dr. Fay. We are also unpersuaded that Luchinski was prejudiced.

Newly Discovered Evidence

¶30 Luchinski raises three claims of newly discovered evidence: one claim relates to the allegedly flawed interviewing habits of Nalley and the Department of Social Services and two claims relate to Joseph.

¶31 The newly discovered evidence test is as follows:

> In order to satisfy this test, the moving party must show that: (1) the party learned of the evidence after the relevant proceeding; (2) the party was not negligent in seeking to discover it; (3) the evidence must not be merely cumulative to other evidence adduced; (4) the evidence must be material to the issue before the court; and (5) it must be reasonably probable that a different result would be reached in a new proceeding.

State v. Gudgeon, 2006 WI App 143, ¶17, 295 Wis. 2d 189, 720 N.W.2d 114, *review denied*, 2006 WI 126, 297 Wis. 2d 320, 724 N.W.2d 204 (WI Sept. 11, 2006) (No. 2005AP1528).

(a) Interviewing techniques

¶32 Luchinski argues that the circuit court erred in rejecting his proffered newly discovered evidence relating to an alleged habit of Nalley and the Department of Social Services to engage in coercive interviews with alleged child sexual assault victims. In particular, Luchinski argues that Nalley conducted overly lengthy interviews and threatened lie detector tests involving children other than the victims in this case.

¶33 As part of postconviction proceedings, Luchinski presented testimony about interview techniques from Lauri Nichols, a therapist who provides therapy to and conducts therapeutic assessments of children who might have been victims of sexual assault. Nichols provided therapy to Molly, Joseph and Cassie. Although Nichols criticized Nalley and the Department with regard to their interviews with other children, Nichols testified that her work with the victims in this case did not suggest that Nalley and the Department of Social Services had employed inappropriate interview techniques with them. Nichols also testified that she did not learn from any other source that improper interview techniques were used.

¶34 The court reviewed the number and length of Nalley's interviews of Molly, Joseph and Cassie; Nalley never had any contact with Hailey. The court found that the allegations about Nalley's threats to conduct lie detector tests and the length of the interviews did not relate to any of the children in Luchinski's

case. The court found no evidence that the victims in Luchinski's case were inappropriately interviewed by Nalley. The court's findings of fact are not clearly erroneous. *See* ***Taylor***, 272 Wis. 2d. 642, ¶14. It is not reasonably probable that a different result would be reached in a new trial if such evidence were presented to a jury. Therefore, this newly discovered evidence claim fails.

(b) Joseph L.

¶35 Luchinski asserts that a post-trial revelation that Joseph was investigated for engaging in sexual misconduct with Molly constituted newly discovered evidence and gave Joseph a motive for accusing Luchinski of sexual abuse to deflect the focus from himself. Nichols testified that she discussed with Nalley whether he knew that Joseph had admitted to sexual contact with Molly. According to Nichols, Nalley had such knowledge, but he had decided not to pursue charges against Joseph. Nichols explained: "My sense was that he felt Joe was pretty likable." Nalley denied making this remark to Nichols, and the postconviction record clarifies that Nichols' testimony was based on her impression of Nalley's remark to her about Joseph.

¶36 We agree with the circuit court that this evidence did not qualify as newly discovered because there was no reasonable probability of a different outcome at trial if the jury heard this information. The information does not impact on Luchinski's guilt, Joseph told Ben five years before trial of abuse by Luchinski, and whether Nalley even discussed with Nichols his decision not to seek charges against Joseph was in conflict.

¶37 Luchinski alleges that a posttrial revelation that Joseph recanted his accusations against Luchinski constituted newly discovered evidence necessitating

a new trial. The circuit court found that the record did not substantiate Luchinski's recantation claim and that no one had any information about a recantation. The circuit court was correct. Nichols testified that she did not know if Joseph had recanted and as far she knew, he had not done so. We agree with the circuit court that this claim is unsupported in the record and does not constitute newly discovered evidence.

Other Acts Evidence

¶38 Luchinski alleges that the circuit court erroneously admitted other acts evidence via the testimony of Valerie, Lori and Tanya. These witnesses testified that Luchinski had sexual contact or intercourse with them when they were children or young teens between the mid-1970s and mid-1980s. The court concluded that the other acts' probative value was not substantially outweighed by the danger of unfair prejudice.

¶39 We review whether the circuit court properly exercised its discretion in admitting other acts evidence. ***State v. Hunt***, 2003 WI 81, ¶34, 263 Wis. 2d 1, 666 N.W.2d 771. When other acts evidence is offered, the following analytical framework applies to determine admissibility:

> 1. Is the other acts evidence offered for an acceptable purpose under WIS. STAT. § (RULE) 904.04(2)?
>
> 2. Is the other acts evidence relevant under WIS. STAT. § (RULE) 904.01?
>
> 3. Is the probative value of the evidence substantially outweighed by the danger of unfair prejudice, confusion, or delay under WIS. STAT. § (RULE) 904.03?

State v. Davidson, 2000 WI 91, ¶35, 236 Wis. 2d 537, 613 N.W.2d 606.

¶40 In cases involving child sexual assault victims, "the greater latitude rule applies to the entire analysis of whether evidence of a defendant's other crimes was properly admitted at trial. The effect of the rule is to permit the more liberal admission of other crimes evidence in sex crime cases in which the victim is a child." ***Id.***, ¶51. However, evidence offered under the greater latitude rule must still meet the three-part test for other acts admissibility. ***Id.***, ¶52.

¶41 The circuit court found that the State offered the evidence for an acceptable purpose: intent, motive, absence of mistake. Citing ***State v. McGowan***, 2006 WI App 80, 291 Wis. 2d 212, 715 N.W.2d 631, Luchinski argues that because he denied committing the assaults, none of the purposes for which the circuit court admitted the other acts evidence was in dispute. In ***McGowan***, the court recognized that intent was not at issue in the sexual assault charges. ***Id.***, ¶17. The court went on to reverse the circuit court's admission of the other acts evidence because it was not relevant due to a lack of similarities between the charged crime and the other acts. ***Id.***, ¶¶20-21.

¶42 Luchinski's reliance upon ***McGowan*** is misplaced. The information charged Luchinski with sexual contact. The jury was instructed regarding sexual contact. Intentional touching is an element of sexual contact. WIS. STAT. § 948.01(5)(a). Therefore, intent was at issue, and the State was required to prove that element beyond a reasonable doubt in the face of Luchinski's denials. *See* ***State v. Plymesser***, 172 Wis. 2d 583, 594-95, 493 N.W.2d 367 (1992).

¶43 Luchinski next claims that the other acts evidence was not relevant. Relevant evidence relates to a matter of consequence to the action and has probative value. ***State v. Sullivan***, 216 Wis. 2d 768, 785-86, 576 N.W.2d 30 (1998). Probative value "depends on the other incident's nearness in time, place

and circumstances to the alleged crime … and lies in the similarity between the other act and the charged offense." ***Id.*** at 786.

¶44 The circuit court discussed the similarities among the victims: three female and one male victim in this case and three females providing other acts evidence. The current victims' ages ranged from three to eleven-and-one-half years old; the other acts victims' ages at the time they claim Luchinski assaulted them ranged from five to thirteen. The assaults all took place in the home and the assaults were similar in nature. The court conceded that although the other acts evidence was remote in time, remoteness can actually enhance the probative value of other acts evidence as discussed in ***State v. Opalewski***, 2002 WI App 145, 256 Wis. 2d 110, 647 N.W.2d 331. Even though Luchinski was a juvenile when he allegedly assaulted Valerie and Lori, the earlier assaults showed the circuit court that over many years, Luchinski preyed upon and sought sexual gratification from young people in close relationships and employed common tactics to obtain that gratification. Therefore, even though the other acts evidence involved conduct from as much as thirty years before, such evidence was relevant.

¶45 We agree with the circuit court's relevancy analysis and its determination of the similarity between the charged acts and the other acts. *See* ***id.***, ¶17 (age ranges of victims and other acts victims similar, common approach to assaults, common setting for assaults). We also agree that the other acts were not too remote in time to the charged crimes. The similarities between the charged acts and the other acts are sufficient to overcome a concern that the other acts evidence was too remote to be relevant or lacked "a rational or logical connection between the acts." ***Id.***, ¶21. The thirty-year time span over which Luchinski engaged in such similar acts "enhance[s], rather than detract[s] from, the other

acts' relevance and probative value." ***Id.***, ¶22. As in ***Opalewski***, the other acts evidence in this case "suggest[s] a pattern of consistent activity that in its totality is significantly more probative than would be the constituent parts standing alone." ***Id.*** That is, Luchinski sexually abused young people in the context of close relationships.

¶46 Finally, we agree with the circuit court that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice. A cautionary instruction guided the jury in its consideration of the other acts evidence and went far "to cure any adverse effect attendant with the admission of the [other-acts] evidence." ***State v. Fishnick***, 127 Wis. 2d 247, 262, 378 N.W.2d 272 (1985).

New Trial in the Interests of Justice

¶47 Finally, Luchinski argues that the interests of justice require a new trial. Having rejected all of Luchinski's challenges to his conviction, we conclude that a new trial is not necessary. *See* ***State v. Echols***, 152 Wis. 2d 725, 745, 449 N.W.2d 320 (Ct. App. 1989).

By the Court.—Judgments and order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.