

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

September 7, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-1330-CR

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

WILLIAM J. WALMSLEY,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for La Crosse County: MICHAEL J. MULROY, Judge. *Affirmed.*

Before Eich, C.J., Dykman and Sundby, JJ.

PER CURIAM. William Walmsley appeals from a judgment convicting him of false imprisonment and sexual assault of a child. The issue is whether the trial court erred by excluding evidence of prior inconsistent statements made by the victim, J.W. Because we conclude that any error in excluding the evidence was harmless, we affirm.

Walmsley was convicted for keeping J.W. in a room against her will for several minutes and touching her breasts. He was acquitted on the charge that he also attempted further sexual contact with her.

J.W. told police and testified in court that she had had no previous sexual contact with Walmsley. However, in a written statement to the police, a friend reported that J.W. had stated after the incident that "this had happened before," possibly referring to previous sexual assaults against her by Walmsley. When counsel attempted to cross-examine J.W. about this potential inconsistency, the State objected. The trial court then excluded evidence of the friend's statement under the Rape Shield Law, because Walmsley did not raise the issue in a pretrial motion. See §§ 972.11(2) and 971.31(11), STATS.

Any error in excluding the evidence of inconsistent prior statements was harmless. An error is harmless if there is no reasonable possibility that it contributed to the conviction. *State v. Dyess*, 124 Wis.2d 525, 543, 370 N.W.2d 222, 231-32 (1985). Here, Walmsley sought to use J.W.'s possible inconsistency to portray her as untruthful or unreliable. However, Walmsley was able to introduce a substantial amount of other evidence on that point.¹ The excluded evidence, which was ambiguous and of doubtful significance in any event, was therefore cumulative and Walmsley was able to fully present his defense without it.

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

¹ The incident occurred at a party. Walmsley introduced evidence that J.W. lied or made inconsistent statements about her conduct at the party, who attended it, a conversation with Walmsley before the assault, and what happened during and immediately after the assault.