

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

September 21, 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. 94-1906-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**HERMAN L. RICHARDSON,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Sauk County:  
JAMES EVENSON, Judge. *Affirmed.*

Before Eich, C.J., Gartzke, P.J., and Dykman, J.

PER CURIAM. Herman L. Richardson appeals from a judgment of conviction entered after a jury found him guilty of sexually assaulting his mentally retarded stepdaughter, contrary to §§ 940.225(2)(c) and (3), STATS. For the reasons set forth below, we affirm.

Richardson disputes neither that the alleged victim was suffering from a mental deficiency which rendered her incapable of consenting to sexual intercourse, nor that he knew of her incapacity to consent. Rather, he argues that the evidence was insufficient to permit a jury finding that he actually had intercourse with the victim. We disagree.

In reviewing the sufficiency of the evidence, the test is not whether this court is convinced of the guilt of the defendant beyond a reasonable doubt, but whether this court can conclude that the jury, acting reasonably, was convinced. On review, we view the evidence in the light most favorable to sustaining the conviction. *State v. Hamilton*, 120 Wis.2d 532, 541, 356 N.W.2d 169, 173 (1984). Under this standard, we reject Richardson's argument.

At trial, the victim testified by words and gestures that Richardson had put his "go potty" into her vulvar and anal areas. The victim also indicated that this occurred during "kissing time" while Richardson laid on top of her and "suffocated" her. Further questioning established that, in the victim's limited vocabulary, a "go potty" is a penis. A reasonable jury could conclude that the victim testified that penetration, and hence intercourse, had occurred.

*By the Court.*—Judgment affirmed.

This opinion will not be published.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