

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

October 4, 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. 94-3205-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

STEVEN M. SOSINSKI,

Defendant-Appellant.

APPEAL from an order of the circuit court for Winnebago County:
WILLIAM E. CRANE, Judge. *Affirmed.*

Before Anderson, P.J., Nettesheim and Snyder, JJ.

PER CURIAM. Steven M. Sosinski appeals pro se from an order denying his postconviction motion for a new trial. Sosinski was convicted of one count of second-degree sexual assault contrary to § 948.02(2), STATS. On appeal, Sosinski challenges the trial court's evidentiary rulings.¹

¹ Sosinski does not appeal from the judgment of conviction. However, he did raise the evidentiary rulings he challenges on appeal in a postconviction motion. Therefore, we have jurisdiction to review his claims.

Sosinski was charged with having sexual contact with his fourteen-year-old stepdaughter. The victim and Sosinski's wife, Kim, testified at trial. On appeal, Sosinski argues that all testimony regarding Kim's "actions and/or demeanor should have been ruled inadmissible, for lack of relevance." While he contends that this testimony was prejudicial to him, he does not identify the allegedly prejudicial testimony. We will not independently develop Sosinski's argument or consider an inadequately briefed issue. See *Vesely v. Security First Nat'l Bank*, 128 Wis.2d 246, 255 n.5, 381 N.W.2d 593, 598 (Ct. App. 1981); see also *State v. Beno*, 99 Wis.2d 77, 91, 298 N.W.2d 405, 413 (Ct. App. 1980).

We turn to Sosinski's second claim that the trial court erred in admitting the victim's prior consistent statements into evidence. Sosinski complains that the statements were unnecessarily cumulative of the victim's trial testimony.

Section 908.01(4)(a)2, STATS., governs the admissibility of prior consistent statements. It provides as follows:

(4) A statement is not hearsay if:

....

(a)The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:

....

2.Consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive

Sosinski claimed that his stepdaughter fabricated the sexual assault because she was unhappy living with him and was motivated to have either herself or Sosinski removed from the house.

The requirements of § 908.01(4)(a)2, STATS., were met in this case. The victim testified at trial and was subject to cross-examination concerning her statements, the prior statements were consistent with the victim's testimony, and the statements rebutted an express or implied charge of improper motive or fabrication. *See State v. Mares*, 149 Wis.2d 519, 525-26, 439 N.W.2d 146, 148 (Ct. App. 1989).

At trial, Debra Knop, the neighbor to whose house the victim ran after the assault, recited the victim's statement to her regarding the assault. Knop's testimony was consistent with the victim's trial testimony. Oshkosh Police Officer Melissa Stensrud testified that she was dispatched to Knop's home the night of the assault and spoke with the victim. The victim gave a written statement which Stensrud read to the court. The statement was consistent with the victim's testimony at trial.

Admission of the victim's prior consistent statements was proper because Sosinski went beyond suggesting that the jury would have to resolve a credibility contest when he alleged that the victim fabricated the assault and had a motive for doing so. *Compare State v. Peters*, 166 Wis.2d 168, 176-78, 479 N.W.2d 198, 201 (Ct. App. 1991) (defendant's statement that his version of events would be truthful did not amount to a charge of recent fabrication or improper motive). We discern no misuse of the trial court's discretion in admitting the victim's prior statements into evidence. *See Mares*, 149 Wis.2d at 526-29, 439 N.W.2d at 148-49. Sosinski contends that the testimony of Officer John Nolte, who participated in his arrest on the evening of the assault, was inadmissible. Nolte testified about the circumstances under which Sosinski was finally taken into custody. Sosinski does not adequately argue this claim. Therefore, we do not consider it further. *See Vesely*, 128 Wis.2d at 255 n.5, 381 N.W.2d at 598.

Sosinski also does not elaborate on his claim that therapist Teri Bryers should not have testified. Therefore, we do not address it further. *See id.*

Finally, we reject Sosinski's claim that the testimony of Laura Lindstrom, a Winnebago County Department of Social Services social worker, was irrelevant. Lindstrom rebutted testimony by Kim that during a meeting with Lindstrom and Kim, the victim recanted her claim that Sosinski sexually

assaulted her. Lindstrom testified that she did not permit Kim to question the victim about her allegations at any time the three were together. Lindstrom's testimony was proper rebuttal evidence. See *Rausch v. Buisse*, 33 Wis.2d 154, 167, 146 N.W.2d 801, 808 (1966) (rebuttal may meet new facts put in by the defendant).

By the Court. – Order affirmed.

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