

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

APRIL 30, 1996

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. 95-2936

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**In the Interest of
Stanley A. N.,
a person under
the age of 18:**

STATE OF WISCONSIN,

Petitioner-Respondent,

v.

STANLEY A. N.,

Respondent-Appellant.

APPEAL from an order of the circuit court for Bayfield County:
ROBERT E. EATON, Judge. *Affirmed.*

LaROCQUE, J. Stanley A. N. appeals an order adjudging him delinquent for having sexual contact with a three-year-old child. He argues that the trial judge exceeded his authority to interrogate witnesses by assuming an adversarial role and "coaching the prosecutor." Because the record shows that

the judge merely clarified the victim's mother's testimony and that his questions were appropriate and impartial, this court affirms the order.

After the parties completed their questioning of the victim's mother, the judge asked her why she took the child to the hospital, what made her believe the child had been molested, when the child told her that Stanley had "put his milk bottle that was by his belly on her," what she thought the child was referring to when she used the phrase "milk bottle" and what her daughter told her when asked why her pants were on backwards or inside out. The court overruled hearsay objections¹ as well as objections to the judge's interrogating the witness. The court then allowed both parties to ask additional questions in light of the testimony elicited by the trial court.

The trial judge may interrogate witnesses. *See* § 906.14(2), STATS. The judge has the right to clarify questions and answers and make inquiries where obvious important evidentiary matters are ignored or inadequately covered by the parties. *See State v. Asfoor*, 75 Wis.2d 411, 437, 249 N.W.2d 529, 540-41 (1977). The judge has an obligation to see to it that justice is done but must do so in an impartial manner. *Id.* Here, the judge clarified the mother's testimony on matters that had previously been unclear. The judge's questions disclose neither improper motive nor partiality. The fact that the testimony was important and favorable to the State does not establish that the judge functioned as a partisan or took an improper, active role in trying the case for either party. Because trial was to the court, there was no danger of misleading a jury or giving the impression that the trial court favored the prosecution. Neither the court's invitation to the parties to ask further questions nor the fact that the prosecutor later asked similar questions of other witnesses supports the argument that the judge coached the prosecutor by asking these questions.

By the Court. – Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

¹ The issue whether these statements constitute hearsay was not pursued on appeal.