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COURT OF APPEALS OF WISCONSIN
DISTRICT NO. I

**CLERK OF COURT OF APPEALS
OF WISCONSIN**

CASE NO. 2014AP002773-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

Vs.

DAVIS KEVIN LEWIS,

Defendant-Appellant,

APPEAL FROM A JUDGMENT OF CONVICTION FROM THE
CIRCUIT COURT, MILWAUKEE COUNTY,
THE HONORABLE DAVID BOROWSKI PRESIDING

BRIEF AND APPENDIX OF DEFENDANT-APPELLANT

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TABLE OF CONTENTS

	Page
Table of Contents	i
Table of Authorities	ii
Statement of the Issues	iii
Statement on Oral Argument and Publication	iv
Statement of the Case	1
Statement of the Facts	3
Argument	5
I. THERE WAS NOT SUFFICIENT EVIDENCE TO CONVICT THE DEFENDANT-APPELLANT AS TO COUNT 1 OF THE INFORMATION	5
II. THE DEFENSE SHOULD HAVE BEEN PERMITTED TO CALL JULIE BRADLEY AS A WITNESS	13
III. THE VIDEO OF THE INTERVIEW OF THE ACCUSER SHOULD NOT HAVE BEEN SHOWN TO THE JURY DURIING DELIBERATION	16
Conclusion	20
Certification	
Certificate of Compliance With Rule 809.19(12)	
Appendix & Certification	

TABLE OF AUTHORITIES

Chapin v. State, 78 Wis. 2d 346,
254 N.W.2d 286 (1977) 13, 15, 16

State v. Anderson, 291 Wis.2d 673,
717 N.W.2d 74 (2006) 17

State v. Poellinger, 153 Wis.2d 493,
451 N.W.2d 752 (1990) 5, 11, 12, 13

STATUTES

904.03 13, 14, 18, 19

939.50(3)(g) 1, 3

940.225(3) 1, 3

STATEMENT OF THE ISSUES

I. WAS THERE SUFFICIENT EVIDENCE TO CONVICT THE DEFENDANT-APPELLANT ON COUNT ONE OF THE INFORMATION?

TRIAL COURT ANSWERED: YES

II. SHOULD THE DEFENSE HAVE BEEN ALLOWED TO CALL JULIE BRADLEY AS A WITNESS?

TRIAL COURT ANSWERED: NO

III. SHOULD THE VIDEO OF THE INTERVIEW WITH THE ACCUSER BEEN SHOWN TO THE JURY DURING DELIBERATION?

TRIAL COURT ANSWERED: YES

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Appellant submits that the legal issues are clearly set forth in the Briefs, and the factual situation is properly reflected in the Statements of Fact and Briefs. Therefore, oral argument and publication are not necessary, but would be welcome if the Court so decides.

STATEMENT OF THE CASE

On October 20, 2012 a Criminal Complaint was filed charging the Defendant-Appellant, Davis Kevin Lewis¹, with Count 1: Third Degree Sexual Assault, contrary to Secs. 940.225(3) and 939.50(3)(g) Wis. Stats. (R:2) (A-App. 104).

On October 29, 2012 Mr. Lewis' Preliminary Hearing was adjourned for cause due to the unavailability of the State's witness, and on November 1, 2012 the Preliminary Hearing proceeded with the testimony of Milwaukee Police Officer Erin Mejias. (R:38). Probable cause was found to bind Mr. Lewis over for trial and an original Information was subsequently filed. (R:5) (A-App. 106). The case was set for a Scheduling Conference on November 16, 2012, and on that date the case was set, off the record, for a Final Pretrial on March 21, 2013 and Jury Trial on May 6, 2013. On March 20, 2013, Mr. Lewis failed to appear in Court. (R:39). A warrant for Mr. Lewis' arrest was issued by stayed, and a new Final Pretrial date was set for April 17, 2013. (R:39). On April 17, 2013, the May 6 Jury Trial date was adjourned because of scheduling conflict with the Court's calendar. (R:40). June 6, 2013

¹It should be noted that Mr. Lewis' proper first name is "David." The use of "Davis" is a scrivener's error in the Court Record.

was selected as the new Final Pretrial date, and August 9, 2013 was selected as the new Jury Trial Date. (R:40). On June 6, 2013, Defense Counsel did not appear in Court, and the case was rescheduled, off the record, for another Final Pretrial on July 15, 2013.

On July 15, 2013, the State requested a new Final Pretrial date closer to the trial date, and the request for which was granted by the Court. (R:41) On August 16, 2013, a Final Pretrial was set for November 15, 2013 and a Jury Trial was set for December 9, 2013. (R:42). On November 15, 2013 the case, off the record, remained scheduled for Jury Trial on December 9. On December 9, 2013, the case was adjourned for Jury Trial until January 8, 2014 due to court congestion. (R:43). Mr. Lewis' Jury Trial commenced on January 8, 2014 and continued until January 10, 2014. (R:44-47). It should be noted that The Honorable Michael Skwierawski preside over Mr. Lewis' Jury Trial instead of Judge Borowski XXXX (R:44). On January 10, 2014, the Jury found Mr. Lewis guilty of Count 1 of the Information: Third Degree Sexual Assault. (R:28) (A-App. 107). A Pre-Sentence Investigation Report (PSI) was filed on March 6, 2014. (R:24). On March 28, 2014, Judge Borowski sentenced Mr. Lewis to 5 years on Initial Confinement in the Wisconsin State Prison System, and 5 years of Extended Supervision. (R:28) (A-App. 107).

On March 28, 2014, Trial Counsel filed a Notice of Intent to Seek Post Conviction Relief on behalf of Mr. Lewis. (R:27) (A-App 109). On November 7, 2014, Appellate Counsel filed a Motion for Postconviction Relief that requested custody credit be granted to Mr. Lewis. (R:31). On November 11, 2014, The Honorable Daniel Konkol granted Mr. Lewis' postconviction request for sentence credit, granting Mr. Lewis 18 days of sentence credit. (R:32). An Amended Judgment of Conviction was filed on November 14, 2014, reflecting the sentence credit granted to Mr. Lewis. (R:33). Finally, Appellate Counsel filed a Notice of Appeal on December 2, 2014. (R:34 A-App. 110).

STATEMENT OF THE FACTS

The Criminal Complaint, filed on October 12, 2012, charged Mr. Lewis with one count of Third Degree Sexual Assault, contrary to Wis. Stats. Secs. 940.225(3) and 939.50(3)(g). (R:2) (A-App. 104).

The complaint alleged that on October 9, 2012, Mr. Lewis had sexual intercourse with KDW, without KDW's consent. (R:2) (A-App. 104). The complaint went on to detail that Milwaukee Police Officer Erin Mejias spoke with KDW, who is cognitively and physically disabled, and who indicated that Mr. Lewis was his caregiver. (R:2) (A-App 104). KDW indicated that while

KDW was at KDW's home, Mr. Lewis was watching a pornographic video, told KDW to take a shower, and that afterwards Mr. Lewis "had something" for KDW. (R:2) (A-App. 104). KDW indicated that he took a shower and that afterwards Mr. Lewis, while still watching the pornographic video, told KDW "I'm finna do this cuz I love you." (R:2) (A-App. 104). KDW went on to indicate that Mr. Lewis subsequently began to rub KDW's penis with his bare hand and without KDW's consent. (R:2) (A-App. 104). KDW further detailed that Mr. Lewis told KDW to close his eyes, pretend that KDW's girlfriend was doing this to him, and that subsequently Mr. Lewis took KDW's penis and put it in Mr. Lewis' mouth without KDW's consent. (R:2) (A-App. 104). KDW indicated that Mr. Lewis stopped this behavior when KDW's sister opened the door to the room. (R:2) (A-App. 104). KDW told Office Mejias that following the incident, Mr. Lewis got KDW dressed, as was their routine, and that KDW went to school. (R:2) (A-App. 104). Mr. Lewis denied the aforementioned conduct to police, and also denied the conduct when he testified at trial. (R:46).

ARGUMENT

I. THERE WAS NOT SUFFICIENT EVIDENCE TO CONVICT THE DEFENDANT-APPELLANT ON COUNT ONE OF THE INFORMATION.

Mr. Lewis understands that an Appellate Court is reluctant to overturn a jury's verdict, as the jury is in the best position to analyze the facts of the case as the jurors hear the evidence first hand. However, in this situation and in the interests of justice, Mr. Lewis respectfully requests that the Court hear his argument to overturn the jury's verdict.

State v. Poellinger, 153 Wis.2d 493, 507, 451 N.W.2d 752 (1990), establishes the standard, on appeal, used to analyze a claim of sufficiency of the evidence to support a conviction. The Court in Poellinger indicated that an appellate court cannot "substitute its judgment for that of the trier of fact unless the evidence, viewed most favorably to the State and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt." State v. Poellinger, 153 Wis. 2d 493, 507, 451 N.W.2d 752, 757-58 (1990). In this case, Mr. Lewis submits that there was insufficient evidence to convict him beyond a reasonable doubt of 3rd Degree Sexual Assault.

In this instance, Count 1 of the Information charged Mr. Lewis with 3rd Degree Sexual Assault. (R:5) (A-App. 106). The Court instructed the jury that the State had to prove the following elements beyond a reasonable doubt:

First, that the defendant had sexual intercourse with (name redacted) KDW.

Second, that (name redacted) KDW did not consent to the sexual intercourse.

(R:46 133) (A-App. 112).

The Court went on to instruct the jury that under the statute, sexual intercourse included fellatio, which is oral contact with the penis. (R:46 133) (A-App. 112). Finally, the Court instructed the jury that to determine whether KDW did not consent to the contact, the jury was to take into account "what he (KDW) said and did along with all the other facts and circumstances." (R:46 133) (A-App. 112).

The State failed to prove beyond a reasonable doubt that Mr. Lewis had sexual intercourse (or inappropriate contact of any kind) with KDW. The State's case against Mr. Lewis is based almost entirely on the accusations of KDW, a 22 year old individual with severe cognitive and physical disabilities. KDW's mother, Natalie Wade, testified that KDW has "sickle cell anemia, (SS). As a result of that he became epileptic. He has borderline cognitive delays as far as like processing as far as like work and stuff like that." (R:45

75) (A-App. 113). Officer Gary Brown, an officer with the Sensitive Crimes Division of the Milwaukee Police Department, testified that he performed a specialized "forensic interview" of KDW because Officer Brown understood that KDW "had a cognitive disability, that although he was of an advanced age he was functioning as a young child." (R:46 26-34) (A-App. 114).

While the Appellant-Defendant does not argue that one who is delayed or physically disabled is automatically not credible, the Appellant-Defendant does believe, in this instance, that KDW is not credible and that therefore, the State did not establish Mr. Lewis' guilty beyond a reasonable doubt. When KDW testified at trial, he began by describing a situation wherein Mr. Lewis, a man who was employed as KDW's caretaker at the time of the alleged incident, touched KDW's "ding-a-ling." (R:45 26-35) (R:49 Ex.1). However, upon further questioning by the State, KDW began to assert that the alleged assault by Mr. Lewis did not occur. The State asked KDW whether MR. Lewis ever put his (Mr. Lewis') mouth on any part of KDW's body. KDW immediately answered "No." (R:45 35) (A-App. 115). The State then asked whether KDW he remembered speaking to the police about the alleged incident and whether KDW was telling those officers the truth. KDW answered in the affirmative. Id. KDW also agreed with the

State that KDW told the officers who interviewed him "about the things that happened to your ding-a-ling that day." Id. The State then inquired whether KDW told the officers about "Uncle David using his mouth somehow with your Ding-a-ling" to which KDW replied "I don't know." Id. The State then asked KDW to clarify, inquiring whether KDW did not tell the officers about the incident or whether KDW could not remember telling the officers, to which KDW replied that he could not remember. Id. and (R:45 36) (A-App. 116). The State also inquired of KDW whether the alleged rubbing of KDW took place in KDW's bedroom, to which KDW replied "No." (R:45 37) (A-App. 117). KDW testified that he had a TV in his bedroom, but that he did not have a DVD player, and that nothing was playing on KDW's television when the alleged incident occurred involving Mr. Lewis. (R:45 38) (A-App. 118). Immediately after testifying that there was nothing on the television during the alleged contact with Mr. Lewis and that there was not a DVD player in KDW's room, KDW testified that "Uncle David" was, in fact watching pornography when Mr. Lewis was "feeling on" KDW's ding-a-ling. Id. KDW went on to describe pornography (though it is unclear whether KDW is describing the pornography alleged to have been watched by Mr. Lewis) and accuse Mr. Lewis of performing oral sex on him (KDW). (R:45 38-41).

On Cross-Examination, KDW testified that Mr. Lewis would become unhappy with KDW when KDW was disrespectful to his (KDW's) mother; that Mr. Lewis would threaten to put KDW in a group home; and that Mr. Lewis doing those things to KDW made KDW mad at Mr. Lewis. (R:45 47-48) (A-App. 119). KDW also testified that KDW was upset with Mr. Lewis because Mr. Lewis did not help KDW get ready for homecoming. (R:45 51) (A-App. 122). KDW also testified that "nobody was there" when the alleged incident occurred between KDW and Mr. Lewis, but then changed his testimony on Re-Direct Examination and indicated that KDW meant that no one was in the room with KDW and Mr. Lewis during the alleged incident. (R:45 49) (A-App. 121) (R:45 52) (A-App. 123).

Following the testimony of KDW came the testimony of Kirshna Thompson, KDW's sister. Kirshna testified that in October 2012 she opened the door to KDW's room and saw Mr. Lewis dressing KDW. (R: 45 56) (A-App. 124). Kirshna explained that the household was getting ready for the day and that she opened the door to KDW's room. (R:45 57) (A-App. 125). She indicated that KDW was getting dressed and Mr. Lewis was helping KDW do the same. Id. Kirshna explained that she saw KDW, nude, standing in the room, and Mr. Lewis sitting in a chair with his back to the door, facing KDW. (R:45 58) (A-App. 126). The chair stopped the door to the

bedroom from opening entirely. (R:45 59) (A-App. 127). Kirshna testified that about one week after she saw KDW and Mr. Lewis in KDW's bedroom, KDW reported that Mr. Lewis had assaulted KDW. (R: 45 70) (A-App. 129). Despite KDW's penchant for playing jokes, Krishna felt that KDW was telling the truth because KDW had a serious facial expression that did not change. (R:45 69-70) (A-App. 129).

KDW's mother, Natalie Wade, was able to give more background on KDW's mental and physical conditions, as she was not a witness to the alleged assault. Ms. Wade testified that she found a pornographic tape in KDW's bedroom, but that this occurred after KDW reported the alleged assault to Ms. Wade and KDW's sister. (R:45 86) (A-App. 131). Ms. Wade also testified that KDW could be very disrespectful of others and become very angry depending upon his medication regimen. (R: 45 88-89) (A-App. 132-133). Mr. Lewis testified in his own defense and told the jury that KDW could go from being very nice and calm to extremely angry and agitated if KDW didn't get what KDW wanted. (R:46 86-87) (A-App. 135-136). Mr. Lewis also testified that he (Mr. Lewis) has serious back problems and that, because of the same, Mr. Lewis would dress and attend to KDW from a sitting position except when Mr. Lewis was helping KDW shower. (R: 46 88) (A-App. 137). Mr.

Lewis always denied that he sexually assaulted KDW or had sexual contact with KDW in any way.

The evidence presented at trial does not support Mr. Lewis' conviction of Third Degree Sexual assault of KDW. Even in taken in a light most favorable to the State, the evidence against Mr. Lewis is so lacking in probative value that a reasonable jury could not have convicted Mr. Lewis. See State v. Poellinger, 153 Wis. 2d 493, 507, 451 N.W.2d 752, 757-58 (1990).

Testimony established that KDW had serious cognitive and physical disabilities that caused law enforcement officials to treat KDW as though he was a child. (R:46 26-34) (A-App. 114). KDW's sister explained that KDW had a tendency to "joke," and KDW's mother and Mr. Lewis testified that KDW could become very angry due to his medical conditions. (R:45 88-89) (A-App. 132-133) (R:45 69-70) (A-App. 129-130) (R:46 86-87) (A-App. 135-136). KDW testified that he became angry with Mr. Lewis when Mr. Lewis would not help KDW get ready for homecoming. (R:45 51) (A-App. 119). KDW's testimony varied wildly, with is both accusing Mr. Lewis of sexual assault and then denying the assault occurred. (R:45 35) (A-App. 115). KDW's sister saw nothing out of the ordinary (save for being startled by seeing KDW nude) when she opened the door too KDW's room on the day of the alleged assault, and

made no mention of pornography being played in the room, despite KDW testifying that Mr. Lewis made KDW watch pornography on the morning of the alleged assault. (R:45 58) (A-App. 126). KDW's mother testified that a pornographic video was found in KDW's room, but there is no proof that the video was in the room on the day of the alleged assault. (R:45 86) (A-App. 131). The entirety of the State's case against Mr. Lewis stems from the word of KDW. Mr. Lewis has always denied the allegations against him, and no other witness testified to Mr. Lewis or KDW watching pornography on the day of the alleged assault or to ever seeing Mr. Lewis behave inappropriately with KDW.

Counsel understands that the Jury is in the best position to judge credibility, but in this case it is believed that the jury was swayed not by the actual evidence against MR. Lewis but rather because it pitied KDW. One would imagine that it is incredibly difficult to look at a broken and suffering young man take the witness stand and then decide that he is lying. The sympathetic, humanistic need not to allow KDW to continue suffering or be embarrassed is a strong one, and Counsel believes that in this case, compassion for KDW, as opposed to credible evidence, swayed the jury to convict Mr. Lewis. Because of the lack of credible evidence to support a conviction of Mr. Lewis under Poellinger, Mr.

Lewis' conviction for Third Degree Sexual Assault against KDW should be reversed. See State v. Poellinger, 153 Wis. 2d 493, 507, 451 N.W.2d 752, 757-58 (1990).

II. THE DEFENSE SHOULD HAVE BEEN
PERMITTED TO CALL JULIE BRADLEY
AS A WITNESS.

Prior the start of the trial, there was a discuss as to whether the Defense would be permitted to call Julie Bradley, an employee of Atlas Healthcare, the company for which Mr. Lewis worked as a caretaker for KDW. Judge Skwierawski ruled that Ms. Bradley would not be permitted to testify per Wis. Stats. Sec. 904.03, but the defense believes that ruling was in error, and that Ms. Bradley should have been permitted to testify at trial. See Wis. Stats. Secs. 904.03.

Wis. Stats. Secs. 904.03 states that "although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Case law establishes that [t]he scope of cross-examination allowed for impeachment purposes is within the trial court's discretion. Chapin v. State, 78 Wis.2d 346, 352, 254 N.W.2d 286, 289-90 (1977). In addition, the court has discretion to weigh the probative

value of evidence against the possibility of unfair or undue prejudice. Id. at 353-354, 289-290.

In the present case, the Defense wished to call Ms. Bradley because she was a supervisor at Atlas Healthcare and as such, had an opportunity to observe Mr. Lewis interact with KDW. (R:44 3-9) (A-App. 138-144). In an offer of proof, the Defense indicated that Ms. Bradley would testify that Mr. Lewis was a good caretaker to KDW based upon her (Ms. Bradley's) observations. Id. Ms. Bradley would also have been asked about whether she herself was ever a caregiver and what kind of patients were cared for by Atlas Healthcare. Id. The State indicated that upon cross examination it would be compelled to ask about Mr. Lewis' background check with Atlas Healthcare, which would have shown that Mr. Lewis had previously been convicted of a sex crime. Id. Citing Wis. Stats. Secs. 904.03, Judge Skwierawksi chose to exclude Ms. Bradley's testimony in its entirety because of the extremely prejudicial nature of the State's potential cross-examination. Id. Judge Skwierawski felt that the State's cross-examination of the witness would be so prejudicial that a mistrial would likely result if Ms. Bradley were allowed to testify. Id.

Ms. Bradley should have been allowed to testify pursuant to Wis. Stats. Secs. 904.03, as Judge Skwierawski could have

limited the scope of the State's cross-examination under Chapin to exclude reference to the background check on Mr. Lewis run by Atlas Healthcare. Chapin v. State, 78 Wis. 2d 346, 352, 254 N.W.2d 286, 289-90 (1977). Ms. Bradley's testimony had probative value to Mr. Lewis' trial and should not have been excluded when one highly prejudicial line of questioning from the State could have simply been excluded by the Judge. Id. at 353-354, 289-290. Ms. Bradley's testimony about her job as a supervisor to Mr. Lewis and other home health care workers could have informed the Jury of the very intimate relationship that workers have with their patients (e.g. helping them shower, dress, and cleaning up after bodily accidents). Her testimony could have made it more clear to the Jury that KDW sometimes being nude around Mr. Lewis was not abnormal or inappropriate, but rather simply a normal part of Mr. Lewis doing his job. Ms. Bradley could also have testified about her observations of Mr. Lewis and that Mr. Lewis' caring for KDW was normal and of an appropriate level of quality.

Instead, all of that relevant and probative evidence was excluded because the State intended to make an inquiry about Mr. Lewis' criminal record. (R:44 3-9) (A-App. 138-144). Judge Skwierawski should have simply forbidden the State to inquire about Mr. Lewis' past, as the Court is permitted to

do under Chapin. Chapin v. State, 78 Wis. 2d 346, 352, 254 N.W.2d 286, 289-90 (1977). The State would have an opportunity to impeach Mr. Lewis with prior criminal convictions upon his taking the stand in his own defense, which would then allow the jury to hear that Mr. Lewis had been previously convicted of a crime while omitting the highly prejudicial information regarding the type conviction. Excluding the testimony of Ms. Bradley, which would have been probative as to the nature of Mr. Lewis's relationship with KDW as well as the nature of Mr. Lewis' job, when the Court could have simply limited the scope of cross-examination was not appropriate, and as such Judge Skwieraswki's decision to omit the same should be overturned.

III. THE VIDEO OF THE INTERVIEW OF
THE ACCUSER SHOULD NOT HAVE BEEN
SHOWN TO THE JURY DURING DELIBERATION

The video of the forensic interview of KDW by Milwaukee police officer Gary Brown was played for the jury during their deliberations, which should not have been permitted. As previously referenced, Officer Gary Brown conducted a forensic interview of KDW about KDW's allegations against Mr. Lewis because of KDW's cognitive limitations, which was played for the jury during Mr. Lewis' trial (R:46 26-34) (A-

App. 114) (R:49) (Ex. 9). The record is unclear as to whether the jury requested to see the video again, but it was played for them during their deliberations. (R:47 10-11). The Defense argued that it would be unduly prejudicial to show the video to the jury a subsequent time. (R:47 5). (A-App. 146). Defense Counsel also argued that there was a risk that playing the statement for the Jury a subsequent time would overemphasize the recorded statement and minimize KDW's in-court testimony. (R:47 6) (A-App. 148). The Court permitted the video to be played for the jury in its entirety, citing a case called Anderson, for which no further citations are provided. (R:47 3-4) (A-App. 145-146). The Court summarized its interpretation of the case as having concern that the Jury could harm a videotape if it was simply given to the Jury in the deliberation room and, more importantly, focus and re-watch one specific portion of the video over and over again. Id. As such, the Court felt that the Anderson case instructed that the recording should be played for the Jury in its entirety in open court. Id.

The Court in State v. Anderson, recommended that recorded statements played for the Jury during deliberations be played in open court as "[t]his procedure minimizes the risk of breakage or erasure of the recording and, more importantly, allows a circuit court to guide the jury, with

the assistance of all counsel, so that no part of the recording is overemphasized relative to the testimony given from the witness stand." State v. Anderson, 291 Wis.2d 673, 693, 717 N.W.2d 74, 84 (2006). Wis. Stats. Sec. 904.03 permits the exclusion of relevant evidence "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Wis. Stats. Secs. 904.03. While the Defense agrees that the proper procedure to play a recorded statement for jury during deliberations is to do so in open court, it believes that the recording of KDW's statement should not have been played again after it was first played during Officer Browns' testimony. Appellate Counsel echoes the arguments of Trial Counsel in that playing KDW's statement for the jury after it was originally played during Officer Browns' testimony created a great danger that the Jury would over-emphasize KDW's statement to Officer Brown and not KDW's credibility as a witness in the courtroom. KDW denied that Mr. Lewis assaulted him when KDW testified before the Jury. (R:45 35) (A-App. 115). The Jury was permitted to watch KDW's statement during Officer Brown's testimony, and that should have been the last that the Jury saw of the video of KDW's

statement. KDW did not testify after his initial testimony before the Jury, nor was the transcript of KDW's testimony read back to the Jury. As such, showing the forensic interview of KDW to the jury after it had already viewed it one time over-emphasized the forensic interview and its implied credibility to the jury and created a risk that the jury would see the forensic interview as more credible than KDW's in-court testimony, simply because it had seen the former more than once.

Finally, as argued earlier in this brief, it is believed that Mr. Lewis was not convicted because of credible evidence against him, but rather because the jury felt sympathy for KDW's physical and cognitive limitations. Re-playing KDW's forensic interview for the Jury did nothing more than remind the jury again that KDW has serious limitations. The last image of KDW that the jury had in its mind before convicting Mr. Lewis was not KDW's inconsistent testimony during trial and his denials that Mr. Lewis assaulted him, but rather a months-old recording of sickly KDW accusing Mr. Lewis of sexually assaulting him. As such, pursuant to Wis. Stats. Secs. 904.03, the recording of Officer Brown's forensic interview of KDW should not have been played for the Jury during its deliberations.

CONCLUSION

For all the reasons stated herein and the arguments set forth in support thereof, Defendant-Appellant Keith Bohannon respectfully asks that this Honorable Court vacate the conviction, or in the alternative, order a new trial, or grant such relief as the Court deems appropriate.

Dated this 29th day of March, 2015.

Respectfully Submitted,

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CERTIFICATION

I certify that this brief conforms to the rules contained in sec. 809.19(8)(b) and (c), Stats., for a brief produced using a monospaced font: 10 characters per inch; double spaced; 1.5 inch margin on the left side and 1 inch margins on the other 3 sides. The length of this brief is 20 pages.

Dated: 03-29-15.

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CERTIFICATE OF COMPLIANCE WITH RULE 809.19(12)

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of s. 809.19(12). I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certificate has been served with this paper copies of this brief filed with the court and served on all opposing parties.

Dated: 03-29-15.

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APPENDIX

APPENDIX
TABLE OF CONTENTS

Index of Appeal Record	A-App. 101
Criminal Complaint	A-App. 104
Amended Information	A-App. 106
Judgment of Conviction	A-App. 107
Notice of Intent	A-App. 109
Notice of Appeal	A-App. 110
Excerpt of Transcript January 10, 2014 (47:133)	A-App. 112
Excerpt of Transcript January 8, 2014 (p.m.) (45:75)	A-App. 113
Excerpt of Transcript January 9, 2014 (46:34)	A-App. 114
Excerpt of Transcript January 8 2014 (45:35-38, 47-49, 51-52, 56-60) (45: 69-70, 86, 88-89, 96)	A-App. 115
Excerpt of Transcript January 9, 2014 (46:86-88)	A-App. 135
Excerpt of Transcript January 8, 2014 (a.m.) (44:3-9)	A-App. 138
Excerpt of Transcript January 10, 2014 (47:3-6)	A-App. 145

DEFENDANT-APPELLANT'S BRIEF
APPENDIX CERTIFICATION

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with sec. 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; and (3) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names using first names and last initials instead of full names and persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated: 03-29-15.

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