

No. 97-1142

STATE OF WISCONSIN

IN COURT OF APPEALS  
DISTRICT III

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STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

ROY MALVITZ,

DEFENDANT-APPELLANT.

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**ERRATA SHEET**

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PLEASE TAKE NOTICE that the attached page 10 is to be substituted for page 10 in the above-captioned opinion which was released on November 4, 1997.

Dated this 13th day of November, 1997.

indicating that the girl was not inappropriately dressed, was walking casually to her home, and did not appear to be in distress.

Direct evidence of a defendant's intent is frequently a matter to be determined from circumstantial evidence. In this case, Malvitz concedes that he approached the young girl in question twice, that he paused at an intersection for several minutes, and that he asked her if she wished to take a ride in his car. Although he claimed that his intent was innocent and that he paused at the intersection only to refill his coffee cup, the jury was not required to accept his explanation. Malvitz's behavior, which so concerned the postal carrier that he decided to follow him, and the fact that Malvitz's testimony about the girl's apparent distress was inconsistent with other testimony, are sufficient to permit a finding that his actions were intended for some type of sexual gratification. Therefore, we reject Malvitz's argument that the evidence was insufficient to support the conviction.

*By the Court.*—Judgment and order reversed and cause remanded.

Not recommended for publication in the official reports.