COURT OF APPEALS
DECISION
DATED AND FILED

September 25, 2007

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2006AP2087-CR **Cir. Ct. No. 2005CF3825**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

BRADLEY JONATHAN LOWDEN,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: JEFFREY A. WAGNER, Judge. *Affirmed.*

Before Curley, P.J., Fine and Kessler, JJ.

¶1 PER CURIAM. Bradley Jonathan Lowden appeals from a judgment of conviction for second-degree sexual assault of a child. *See* WIS.

STAT. § 948.02(2) (2005-06).[1] The sole issue on appeal is whether the circuit court erroneously denied Lowden the opportunity to present evidence that the minor victim had intentionally misrepresented her age. Under ***State v. Jadowski***, 2004 WI 68, 272 Wis. 2d 418, 680 N.W.2d 810, the answer to that issue is "no." Accordingly, we affirm the judgment of conviction.

Background

¶2 The facts are undisputed. Lowden, then thirty years old, met Monique B. in an Internet chat room. Monique told Lowden she was eighteen years old. After several computer and telephone conversations, Lowden drove to Two Rivers, Wisconsin, where Monique lived. The two met, and Monique accompanied Lowden back to his Milwaukee apartment. She stayed with Lowden for approximately one month. Lowden and Monique had sexual intercourse numerous times. During her time in Milwaukee, Monique met Lowden's family. She told them she was eighteen years old and wanted to attend the University of Wisconsin-Milwaukee. Eventually, Monique told Lowden that she was not eighteen years old. Monique was fourteen years old at the time.

¶3 Lowden was charged with one count of second-degree sexual assault of a child. Lowden filed a pretrial motion *in limine* seeking to introduce evidence that Monique had intentionally misrepresented her age. In addition to his testimony regarding Monique's statements to him, Lowden wanted his parents to testify to what Monique told them about her age. The circuit court denied

[1] All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

Lowden's motion. Lowden waived a jury trial, and the case was tried to the court which found Lowden guilty.

Discussion

¶4 In ***Jadowski***, the supreme court held that a victim's intentional misrepresentation of his or her age is not an affirmative defense to a charge of second-degree sexual assault of a child under WIS. STAT. § 948.02(2). ***Jadowski***, 272 Wis. 2d 418, ¶¶3, 11, 30. The court further held that evidence regarding the defendant's belief about the victim's age and evidence suggesting that the defendant's belief was reasonable was not relevant. ***Id.***, ¶¶3, 31.

¶5 Lowden acknowledges that the facts of this case mirror those in ***Jadowski***. He further concedes that the supreme court's opinion is controlling. *See* ***Cook v. Cook***, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997) (this court is bound by prior precedent of the supreme court). Accordingly, we conclude that the circuit court correctly denied Lowden's motion *in limine* when it refused to admit evidence that Monique had intentionally misrepresented her age.

¶6 Lowden goes on to argue that his constitutional rights to confront and cross-examine witnesses are violated if he cannot introduce evidence of Monique's intentional misrepresentation. In ***Jadowski***, the defendant raised a constitutional challenge premised on vagueness, overbreadth, and substantive due process. ***Id.***, 272 Wis. 2d 418, ¶33. The court concluded that WIS. STAT. § 948.02(2) was "clear and precise" and not "unconstitutionally vague." ***Jadowski***, 272 Wis. 2d 418, ¶36. The court further concluded that a defendant's substantive due process rights were not violated by the statute and that the statute was not unconstitutionally overbroad. ***Id.***, ¶¶38-50.

¶7 Lowden's constitutional challenge is not premised on vagueness, overbreadth or substantive due process grounds; furthermore he does not develop any argument. Rather, as he did with his initial argument, Lowden concedes that the supreme court's opinion in ***Jadowski*** is controlling. We will not consider undeveloped arguments. *See* ***Truttschel v. Martin***, 208 Wis. 2d 361, 369, 560 N.W.2d 315 (Ct. App. 1997). We accept Lowden's concession and, accordingly, we reject his constitutional challenge.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.