

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 22, 2017

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2016AP2399-CR

Cir. Ct. No. 2015CF116A

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

CHRISTIAN ALEKS BISBACH,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Grant County:
CRAIG R. DAY, Judge. *Affirmed.*

Before Lundsten, P.J., Blanchard, and Kloppenburg, JJ.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. Christian Aleks Bisbach appeals a judgment of conviction entered after a jury found him guilty of twelve counts of incest stemming from his sexual relationship with an adult sister, K.R. Bisbach argues that he is entitled to a new trial either because the evidence was insufficient to support the jury’s verdicts or because his confession was insufficiently corroborated. We disagree and affirm.

¶2 Bisbach went to trial on twelve counts of incest, contrary to WIS. STAT. § 944.06 (2015-16).¹ Bisbach’s probation agent testified that Bisbach was placed in custody after he was seen holding hands with K.R. at a festival. Deputy Craig Reukauf testified that he interviewed Bisbach about his relationship with K.R. An audio recording of the interview was played for the jury.² In it, Bisbach told Reukauf that he moved in with K.R. and their “mom and dad,” M.R. and M.R., on May 5, 2015. Bisbach stated that his “mom and dad” are also K.R.’s parents. Bisbach admitted that he began a sexual relationship with K.R. almost immediately and that they had sexual intercourse at their residence about a dozen times. Bisbach told Reukauf that he was adopted by a different family out of the home of the parents he shared with K.R. when he was three years old, long before the birth of K.R. Bisbach admitted that he and K.R. were brother and sister, but said “in our minds or her mind we’re not. Because we didn’t grow up together.”

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

² The interview was also transcribed and introduced as an exhibit at trial.

¶3 The State also played audio recordings of phone calls made by Bisbach from the jail to K.R.³ In the calls, Bisbach asked K.R. about touching herself and told her that she was a keeper and that he wanted her back when he got out of jail. Bisbach talked about getting a place for them and said he could not wait to sleep in his bed with his “little sister next to him.”

¶4 At the close of the State’s case, the defense moved for a directed verdict, arguing that there was no corroborating evidence to establish the elements of incest. Bisbach also argued that there was no evidence that he and K.R. were related by blood. The circuit court denied the motion finding that the two jail calls corroborated the confession. The court did not directly address the argument regarding a lack of evidence of a blood relationship.

¶5 On appeal, Bisbach first argues that there was insufficient evidence to support the jury’s verdicts. A defendant commits the crime of incest when he or she has sexual intercourse with a person he or she knows is a blood relative, and the person is related more closely than a second cousin. *See* WIS. STAT. §§ 765.03(1) and 944.06; WIS JI—CRIMINAL 1532. According to Bisbach, there was insufficient evidence for the jury to find that he was related to K.R.

¶6 We review the sufficiency of the evidence *de novo*, but in the light most favorable to sustaining the conviction. *State v. Hanson*, 2012 WI 4, ¶15, 338 Wis. 2d 243, 808 N.W.2d 390. The standard of review is the same whether the conviction relies upon direct or circumstantial evidence. *State v. Poellinger*,

³ The State introduced excerpts from two of the twenty-one recorded jail calls. The recorded calls were never transcribed, either prior to trial or during the course of trial, when they were played to the jury.

153 Wis. 2d 493, 503, 451 N.W.2d 752 (1990). We will sustain a conviction unless the evidence is so insufficient “that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.”

Id. at 501.

If any possibility exists that the trier of fact could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, an appellate court may not overturn a verdict even if it believes that the trier of fact should not have found guilt based on the evidence before it.

Id. at 507.

¶7 Bisbach contends that, although the State proved that Bisbach believed K.R. was his biological sister, it did not independently prove their biological relationship. Bisbach faults the State for not presenting evidence such as a birth certificate, DNA, or the testimony of any family members to prove the biological relationship. The State argues that Bisbach’s statements to Deputy Reukauf provided sufficient evidence to support the jury’s verdicts. We agree with the State.

¶8 Bisbach admitted to the investigating officer that he had sexual intercourse with K.R. about a dozen times. Bisbach also admitted that he knew K.R. was his sister and that they shared the same parents, M.R. and M.R. Nothing in the record suggests that M.R. and M.R. adopted either Bisbach or K.R. To the contrary, the evidence presented is reasonably understood as showing that Bisbach had been born to M.R. and M.R. and then adopted by a different family, and was given a different surname. Bisbach’s statements that he and K.R. are brother and sister who share the same parents support a reasonable inference that they are biological brother and sister. The State was not required to present additional

documentary, scientific, or other testimonial evidence of a fact that was not disputed by the defense at trial.

¶9 Next, Bisbach argues that even if the evidence was sufficient, his conviction should be reversed because it was based on an uncorroborated confession. A conviction cannot stand on a defendant's confession alone; it must be corroborated by independent evidence that the crime occurred. *State v. Bannister*, 2007 WI 86, ¶23, 302 Wis. 2d 158, 734 N.W.2d 892. The confession rule requires that the State introduce evidence corroborating “any significant fact.” *Id.*, ¶26 (quoted source omitted). “[T]he test requires only one significant fact to be corroborated,” and it need not corroborate any particular aspect of the confession. *Id.*, ¶¶ 29, 36-37. “A significant fact need not either independently establish the specific elements of the crime or independently link the defendant to the crime.” *Id.*, ¶31. The evidence, viewed most favorably to the verdict, must simply be sufficient to establish one significant fact that allows the factfinder to be confident that the crime to which the defendant confessed occurred. *Id.*, ¶¶26, 31-32. Whether the State satisfied the corroboration rule at trial presents a question of law. *Id.*, ¶22.

¶10 We conclude that the evidence at trial established more than one significant fact sufficient to corroborate Bisbach's confession. The confession was corroborated by the fact that Bisbach was seen holding hands with K.R. in public, as well as by Deputy Reukauf's declaration during the taped interview that K.R. had stated that she and Bisbach were in a relationship. The confession was further corroborated by the content of the recordings of telephone calls that Bisbach made to K.R., which were played for the jury. These significant facts corroborated that Bisbach had a sexual relationship with his sister, K.R., as

Bisbach stated in his confession, and provided a sufficient basis for the trier of fact to be confident that the crime to which Bisbach confessed occurred.

By the Court.—Judgment affirmed.

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

