

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 19, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

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 § 808.10 and RULE 809.62, STATS.

No. 97-3012

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT III

IN THE INTEREST OF JORDAN A.C., A PERSON UNDER
THE AGE OF 17:

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

JORDAN A.C.,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Polk County:
RICHARD STAFFORD, Judge. *Reversed and cause remanded.*

HOOVER, J. Jordan A.C. appeals a judgment adjudicating him delinquent for possession of a controlled substance with intent to deliver, contrary to § 961.41(1m)(f)(1), STATS. Jordan confessed to having possessed and delivered “acid.” He contends that the State failed to prove beyond a reasonable doubt that the substance Jordan possessed was lysergic acid (LSD). This court concludes

that the State failed to corroborate any element of the offense to which Jordan confessed. The confession is therefore inadequate to support the adjudication and, accordingly, this court reverses.

Jordan was charged with possession of LSD and with possession of LSD with intent to deliver. At his court trial, Jordan's high school principal, the police chief, and another officer testified to statements Jordan made concerning the purported use of LSD. Joe Sciacca, the principal of St. Croix Falls High School, testified that other students alerted him to drug use in the school. He stated that after questioning him, Jordan admitted to using drugs outside of school and at a student's home. He further testified that Jordan told Sciacca and a police officer that Jordan collected money from students, went to another town, purchased "acid," and then left it in the ashtray of another student's car. The chief of police testified to substantially similar facts, indicating that Jordan spoke of procuring and using "pot" and "acid" and leaving "acid" in someone's car. Another officer gave testimony similar to the chief. Following a trial to the court, Jordan was found guilty of one count of possession with intent to deliver one gram or less of LSD. On appeal, Jordan contends that the State failed to prove beyond a reasonable doubt that the substance in question was in fact LSD.

Jordan confessed to possessing and leaving "acid" in another student's car. WEBSTER'S NEW COLLEGIATE DICTIONARY 10 (1977) includes in its definition of "acid" the term "LSD." In confessing to possessing and delivering "acid," Jordan provided evidence sufficient to support every element of the offense, including that the substance was indeed LSD. This court must, however, examine the trial evidence to determine if sufficient corroboration exists to support the confession's reliability and the adjudication.

This case involves the application of law to undisputed facts. It therefore presents a question of law reviewed de novo. *Ball v. District No. 4, Area Bd.*, 117 Wis.2d 529, 537, 345 N.W.2d 389, 394 (1984).

All the elements of the crime do not have to be proved independently of an accused's confession; however, there must be some corroboration of the confession in order to support a conviction. Such corroboration is required in order to produce a confidence in the truth of the confession. The corroboration, however, can be far less than is necessary to establish the crime independent of the confession. If there is corroboration of any significant fact, that is sufficient under the Wisconsin test.

Holt v. State, 17 Wis.2d 468, 480, 117 N.W.2d 626, 633 (1962).

This court concludes that sufficient corroboration does *not* exist to demonstrate the reliability of the confession. First, from this court's review of the record, no physical evidence corroborates the confession. No substance was seized, and Jordan was not tested to determine if he ingested LSD. Further, testimony at trial failed to corroborate any element of Jordan's admission. The State called three witnesses: the principal, the chief of police and another officer. All three testified about Jordan's confession, but a hearsay objection prevented them from testifying as to what other students purportedly told the principal regarding Jordan selling drugs. The State did not call any of these students as witnesses to testify. Therefore, no evidence corroborates any element of Jordan's confession and it thus fails to support the adjudication.

By the Court.—Judgment reversed and cause remanded.

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

