

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 11, 2010

David R. Schanker
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. 2009AP449-CR

Cir. Ct. No. 2006CF122

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

DONALD A. NEWELL,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Chippewa County:
RODERICK A. CAMERON, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Brunner, JJ.

¶1 PER CURIAM. Donald Newell appeals a judgment convicting him of ten counts of second-degree sexual assault for having intercourse with a person suffering a mental deficiency. The convictions are substantially based on Newell's sixteen-page written statement in which he admitted having anal

intercourse with Tina H. ten to twelve times and performing oral sex on her on two or three occasions. Tina suffers from a number of physical and mental disabilities and at thirty-five years old, functioned at the level of a five to eight year old. At trial, Tina confirmed two incidents of sexual intercourse with Newell. Newell contends the confession was not sufficiently corroborated to support the ten convictions. We reject that argument and affirm the judgment.

¶2 Conviction of a crime may not be grounded on the admission or confession of the accused alone. *State v. Verhasselt*, 83 Wis. 2d 647, 661, 266 N.W.2d 342 (1978). Rather, there must be corroboration of a “significant fact” in order to sustain a conviction. *Schultz v. State*, 82 Wis. 2d 737, 753, 264 N.W.2d 245 (1977). The purpose of the corroboration rule is to assure that a crime actually occurred. *State v. Bannister*, 2007 WI 86, ¶31, 302 Wis. 2d 158, 734 N.W.2d 892. Once the State sufficiently corroborates a significant fact in a defendant’s confession, the jury may rely on the defendant’s confession as the only basis for a guilty verdict. *See Larson v. State*, 86 Wis. 2d 187, 199, 271 N.W.2d 647 (1978).

¶3 Newell’s statement was sufficiently corroborated to support the ten convictions. In addition to Tina’s confirmation of two incidents of intercourse, her testimony and that of other witnesses confirmed many other details in Newell’s confession. Newell described in detail how he met Tina, took her to shopping malls and camping, gained her trust and eventually got her to stay at his residence overnight. While none of these acts can be considered a crime, they can be considered evidence of “grooming behavior” to gain Tina’s confidence and trust and to give Newell the opportunity to sexually exploit her. Confirmation of these details, coupled with Tina’s testimony of two incidents of sexual intercourse, constitutes sufficient corroboration of Newell’s confession to support the verdicts.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (2007-08).

