



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT II

July 16, 2025

To:

Hon. Jason A. Rossell
Circuit Court Judge
Electronic Notice

Christopher P. August
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
Electronic Notice

John W. Kellis
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2023AP1338-CR

State of Wisconsin v. Anthony M. Riddle (L.C. #2017CF845)

Before Gundrum, P.J., Grogan, Lazar, JJ.

Summary disposition orders 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).

Anthony M. Riddle appeals from a judgment of conviction and an order denying his motion for a new trial. He argues that he received ineffective assistance because his trial counsel did not object to testimony and argument about the virginity of the victim, Jane.¹ Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We affirm.

¹ This matter involves the victim of a crime. Pursuant to WIS. STAT. RULE 809.86(4) (2023-24), we use a pseudonym instead of the victim's name.

All references to the Wisconsin Statutes are to the 2023-24 version.

Riddle was charged with four counts of second-degree sexual assault of a child under the age of sixteen. After a jury trial, Riddle was convicted of three of the charges and acquitted of one of the charges. The court imposed a global sentence of thirty years of initial confinement and twenty years of extended supervision.

Riddle moved for a new trial, asserting ineffective assistance of counsel because trial counsel did not object to multiple references to Jane's virginity, which are barred by Wisconsin's rape-shield statute, WIS. STAT. § 972.11(2)(b). Acknowledging that the information should not have been heard by the jury under the rape-shield statute, the circuit court nevertheless denied the motion because Riddle did not show that he was prejudiced.

To prove a claim of ineffective assistance of counsel, a defendant must meet a two-pronged test: (1) that his lawyer performed deficiently; and (2) that this deficient performance prejudiced him. See *Strickland v. Washington*, 466 U.S. 668, 687 (1984). The test for deficient performance is whether "counsel's representation fell below an objective standard of reasonableness." *Id.* at 688. To show prejudice, "[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. "Such a probability 'exists when there is a substantial, not just conceivable, likelihood of a different result.'" *State v. Stroik*, 2022 WI App 11, ¶28, 401 Wis. 2d 150, 972 N.W.2d 640 (citation omitted). A claim of ineffective assistance of counsel fails if the defendant does not establish either prong of this test. *Id.* at 697.

Assuming that counsel performed deficiently by failing to object to testimony and argument about Jane's virginity, we conclude that Riddle cannot satisfy the prejudice prong of

Strickland because he cannot show that there is a substantial likelihood that he would not have been convicted if his trial counsel had objected to the offending testimony and argument.

There was overwhelming evidence to support the assaults. An adult who has sexual contact or intercourse with a child who has not attained the age of sixteen years is guilty of sexual assault of a child. *See* WIS. STAT. § 948.02. Riddle's theory of defense was that he had no sexual contact with Jane. In contrast, Jane testified that Riddle, an adult neighbor, engaged in prohibited sexual contact and intercourse with her during early July 2017 and again roughly a week later, when she was fifteen years old. Her testimony described how the meetings were arranged, when and where the encounters occurred, and the details of what happened. Jane testified that Riddle knew how old she was, that she resisted Riddle, and was shocked by what happened.

The State introduced as evidence information about digital communications between Jane and Riddle. This included a screenshot from Jane's phone showing a sexually explicit image-based message. Detective Peter Deates testified about the forensic interview he conducted with Jane and authenticated call-detail records and Facebook metadata confirming sustained contact between Jane's accounts and a number Jane identified as Riddle's number.

Jane's stepfather testified that, upon seeing the explicit message on Jane's phone on July 18, 2017, he questioned Jane and she acknowledged that she and Riddle had sexual intercourse.

Wisconsin State Crime Laboratory DNA analyst Stephanie Kleine reported detecting trace male DNA in samples collected from Jane during a medical exam two weeks after the first

reported incident—evidence consistent with recent sexual contact. In addition, the State introduced photographs of the hallway Jane identified as where the assaults occurred.

To prevail, Riddle had to show “a reasonable probability that, but for counsel’s errors, the result of the proceeding would have been different.” The evidence listed above—Jane’s sworn identification and details of the assaults, corroborating digital records, her immediate disclosure to her stepfather, trace male DNA, and supporting text screenshots and photographic exhibits—provided ample support for the jury’s verdict regardless of the mentions of Jane’s virginity. Jane’s virginity did not provide scientific corroboration of Jane’s story, and the above-listed evidence did not depend on Jane’s prior virginity. We agree with the circuit court that there was no prejudice in light of the evidence adduced at trial because Jane’s virginity “was not a central theme of the case.” Riddle cannot demonstrate that there is a substantial likelihood that he would not have been convicted if his trial counsel had objected to the offending testimony and argument. Accordingly, the prejudice prong of *Strickland* is not met, and his ineffective assistance claim fails.

Therefore,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals