

No. 98-1394-CR-NM

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

STATE OF WISCONSIN,

FILED

PLAINTIFF-RESPONDENT,

April 9, 1999

v.

CLERK OF
COURT OF APPEALS
OF WISCONSIN

MILTON F. POZO,

DEFENDANT-APPELLANT.

ERRATA SHEET

Marilyn L. Graves
Clerk of Court of Appeals
P.O. Box 1688
Madison, WI 53701-1688

Court of Appeals District II
2727 N. Grandview Blvd.
Waukesha, WI 53188-1672

Court of Appeals District I
633 W. Wisconsin Ave., #1400
Milwaukee, WI 53203-1918

Court of Appeals District IV
119 Martin Luther King Blvd.
Madison, WI 53703

Court of Appeals District III
740 Third Street
Wausau, WI 54403-5784

Hon. Patrick J. Fiedler
City-County Bldg.
210 Martin Luther King, Jr. Blvd.
Madison, WI 53709

Jennifer Krapf
Administrative Assistant
119 Martin Luther King Blvd.
Madison, WI 53703

Judith A. Coleman, Trial Court Clerk
T.C.# 96-CF-900
Rm. GR-10, City-County Bldg.
210 Martin Luther King, Jr. Blvd.
Madison, WI 53709

Peg Carlson
Chief Staff Attorney
119 Martin Luther King Blvd.
Madison, WI 53703

Robert J. Kaiser, Jr.
Asst. District Attorney
City-County Bldg., Room 523
Madison, WI 53709-0001

Glenn L. Cushing
Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

Mary E. Burke
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Milton F. Pozo
3117 Todd Drive
Madison, WI 53713

PLEASE TAKE NOTICE that the attached page 3 is to be substituted for page 3 in the above-captioned opinion which was released on March 25, 1999.

black, lobbing an object. Testimony established that the object was a bottle. Specifically, Pozo testified under oath that over the course of one hour, he threw fifteen bottles in the direction of fire trucks attempting to fight the fires set on Mifflin Street. On cross-examination, the following exchange took place:

[Prosecutor]: At counter 101 [on the videotape], Mr. Pozo, that is you, is that correct?

[Pozo]: Yes.

[Prosecutor]: With the bottle in your hand, is that right?

[Pozo]: I don't know. I'm assuming that would be.

[Prosecutor]: Because that's what you were throwing, is that right?

[Pozo]: Yes.

Another witness testified that he saw a bottle leave Pozo's hand and crack a fire truck windshield.

In reviewing the sufficiency of the evidence, the test is not whether this court is convinced of the guilt of the defendant beyond a reasonable doubt, but whether this court can conclude that the jury, acting reasonably, was convinced. On review, we are obliged to view the evidence in the light most favorable to sustaining the conviction. *See State v. Hamilton*, 120 Wis.2d 532, 541, 356 N.W.2d 169, 173 (1984); *Bautista v. State* 53 Wis.2d 218, 223, 191 N.W.2d 725, 728 (1971). This evidence against Pozo was more than sufficient to sustain the conviction.

JUROR STRIKE

During individual voir dire, a juror indicated that she felt the Mifflin Street Block Party had become dangerous, expensive to the city, and she did not see any reason for continuing it. The juror also indicated she had friends who