

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 27, 2000

Cornelia G. Clark
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 WIS. STAT. § 808.10 and RULE 809.62.

No. 00-0011-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

BELINDA C. WOLF,

DEFENDANT-APPELLANT.

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

¶1 CANE, C.J.¹ Belinda Wolf, pro se, appeals from a judgment convicting her of obstructing or resisting an officer, contrary to WIS. STAT.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (1997-98). All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

§ 946.41(1). This court interprets Wolf's argument to be that (1) she was denied her right to a speedy trial; and (2) the evidence at trial was insufficient to support her conviction. This court rejects these arguments and affirms the judgment.

¶2 On October 6, 1999, the State filed a criminal complaint against Wolf alleging that she had resisted an officer attempting to execute a warrant for her arrest. Wolf appeared before the circuit court on November 2 and waived her right to both an attorney and a jury trial. At the December 2 trial to the court, the court concluded that the evidence established beyond a reasonable doubt that the officers were acting in their official capacities and with lawful authority. It further concluded that Wolf "knew that her actions were going to constitute an obstruction or resistance to the ability of the officers to carry out their lawful duties, which in this case were the execution of a bench warrant for her arrest." Wolf was convicted and this appeal followed.

¶3 Wolf contends that she was denied the right to a speedy trial guaranteed her under WIS. STAT. § 971.10. Section 971.10(1) provides: "In misdemeanor actions trial shall commence within 60 days from the date of the defendant's initial appearance in court." Here, it is uncontested that Wolf's initial appearance on the instant conviction was November 2, 1999. Wolf's trial to the court occurred on December 2, well within the sixty-day time period. This court therefore concludes that Wolf's statutory right to a speedy trial was not violated. Similarly, Wolf has failed to establish a violation of her constitutional right to a speedy trial.

¶4 The constitutional right to a speedy trial is found in the Sixth Amendment to the United States Constitution and art. 1, § 7, of the Wisconsin

Constitution.² Whether a defendant has been denied the right to a speedy trial is a constitutional question that this court reviews de novo. *See State v. Ziegenhagen*, 73 Wis. 2d 656, 664, 245 N.W.2d 656 (1976). The trial court's underlying findings of historical fact, however, will be upheld unless they are clearly erroneous. *See* WIS. STAT. § 805.17(2); *see also State v. Clappes*, 136 Wis. 2d 222, 235, 401 N.W.2d 759 (1987).

¶5 Under both the United States and Wisconsin Constitutions, to determine whether a defendant has been denied the right to a speedy trial, a court must consider: (1) the length of the delay; (2) the reason for the delay, i.e., whether the government or the defendant is more to blame for the delay; (3) whether the defendant asserted the right to a speedy trial; and (4) whether the delay resulted in any prejudice to the defendant. *See Doggett v. United States*, 505 U.S. 647, 651 (1992); *Barker v. Wingo*, 407 U.S. 514, 530 (1972); *Day v.*

² The Sixth Amendment to the United States Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

In turn, art. 1, § 7, of the Wisconsin Constitution provides:

Rights of accused. SECTION 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment, or information, to a speedy public trial by an impartial jury of the county or district wherein the offense shall have been committed; which county or district shall have been previously ascertained by law.

State, 61 Wis. 2d 236, 244, 212 N.W.2d 489 (1973). Here, because there was no delay, this court concludes that Wolf's constitutional right to a speedy trial was not violated.

¶6 Wolf additionally argues that there was insufficient evidence at trial to support her conviction for resisting an officer. This court disagrees. In reviewing the sufficiency of the evidence to support a conviction:

[A]n appellate court may not substitute its judgment for that of the trier of fact unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt. 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.

State v. Poellinger, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). The crime of obstructing an officer consists of three elements:

(1) the defendant obstructed an officer; (2) the officer was doing an act in his or her official capacity and with lawful authority; and (3) the defendant obstructed the officer knowing, that is, the defendant knew or believed that he or she was obstructing the officer while the officer was acting in his or her official capacity and with lawful authority.

Henes v. Morrissey, 194 Wis. 2d 338, 353, 533 N.W.2d 802 (1995).

¶7 This court's review of the record reveals that the evidence was not so lacking in probative value that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt. At Wolf's trial, three Chippewa County police officers testified about Wolf's efforts to resist arrest. On May 17, 1999, the

officers attempted to execute a search warrant for the Wolf residence as well as arrest warrants for both Belinda and Larry Wolf. Officer Stephen Pederson testified he encountered Belinda Wolf in a second floor room of the home and, after notifying her he had a warrant for her arrest, Wolf responded that she was not going anywhere. As Pederson attempted to place her under arrest, Wolf struggled by attempting to hit and kick the officers. Ultimately, Pederson and two other officers had to physically restrain her. After Wolf was handcuffed, she became passive resistant, going “limp,” thereby forcing the officers to carry her out of the residence. Wolf presented no witnesses at trial. This court concludes that the evidence of Wolf’s guilt was sufficient to support her conviction.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

