**COURT OF APPEALS**
**DECISION**
**DATED AND RELEASED**

September 13, 1995

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.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-0711-FT**

**STATE OF WISCONSIN** **IN COURT OF APPEALS**
**DISTRICT II**

**CITY OF NEW BERLIN,**

**Plaintiff-Respondent,**

**v.**

**KENNETH POLLICH,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Waukesha County: PATRICK L. SNYDER, Judge. *Affirmed*.

SNYDER, J. Kenneth Pollich appeals from a judgment finding him in violation of NEW BERLIN, WIS., MUNICIPAL CODE § 9.15, designated "Destruction of Property Prohibited." Pollich contends that the evidence was not sufficient to support the jury verdict. He further contends that because he was appearing pro se and failed to object to inadmissible evidence, the verdict was not based on credible evidence. We disagree and affirm the trial court.

Pollich resides in New Berlin. On August 10, 1993, a New Berlin police officer, Chris Jaekl, was dispatched to Pollich's residence after an anonymous phone call was received. The caller indicated that Pollich had scooped up newly-laid gravel from the roadbed in front of his house and placed it in his gravel driveway.

When Jaekl arrived, he observed that there was clean, white gravel along the shoulder of the street, except in front of Pollich's property. The officer also observed patches of white gravel in Pollich's gravel driveway. When questioned by the officer, Pollich seemed nervous and evasive and only concerned with the identity of the individual who had made the complaint. Pollich was issued a citation for a violation of NEW BERLIN, WIS., MUNICIPAL CODE § 9.15(1), which states:

> No person shall injure or intentionally deface, destroy, take, or meddle with any property belonging to the City or any of its departments or to any private person without the consent of the owner or proper authority.

Richard Hause, a street supervisor for the City of New Berlin, was subsequently asked to inspect Pollich's property. He observed that there was no gravel in front of the property, and the drop from the new asphalt to the shoulder was more than three inches. The contractor was to place gravel along the shoulder wherever the drop exceeded two inches. Hause also observed that the grass along the shoulder in front of Pollich's property was a pale yellow color. When limestone gravel is placed on grass, the lime in the gravel burns

the grass, turning it a pale yellow color. The appearance of the grass in front of Pollich's house led Hause to conclude that gravel had been placed there.

Pollich appeared pro se and was found guilty in a bench trial in New Berlin municipal court of violating § 9.15(1) of the municipal code. Pollich appealed to the Waukesha County Circuit Court, requesting a jury trial. That trial was de novo and Pollich again appeared pro se. A jury of six found Pollich guilty and this appeal followed.

Pollich contends that the jury verdict was not based on sufficient credible evidence. When a verdict has the approval of the trial court, it will not be upset unless there is no credible evidence to support it. *See* ***York v. National Continental Ins. Co.,*** 158 Wis.2d 486, 493, 463 N.W.2d 364, 367 (Ct. App. 1990). If more than one reasonable inference can be drawn from the evidence, the court accepts the inference drawn by the jury. ***Id***. This standard of review is the same whether the evidence presented is testimonial or circumstantial. *See* ***Krueger v. State,*** 84 Wis.2d 272, 283, 267 N.W.2d 602, 607, *cert. denied*, 439 U.S. 874 (1978).

Pollich contends that there was not sufficient evidence on which to base the jury verdict. The jury heard Jaekl testify that he received an anonymous phone call from a neighbor, stating that Pollich had scooped up the fresh gravel and put it in his driveway. If hearsay evidence is admitted without objection, the jury may rely on it. ***Caccitolo v. State,*** 69 Wis.2d 102, 113, 230 N.W.2d 139, 145 (1975). Jaekl testified that he observed freshly-laid gravel in front of every other house on the block except Pollich's. There was testimony

that there were clean, white gravel patches in Pollich's driveway. When Pollich was questioned, Jaekl observed that he was evasive and nervous, suggesting to Jaekl that Pollich was not being honest.

Hause also visited the Pollich property and was of the opinion that there had been gravel in front of Pollich's house, but it had been moved. He based this on the fact that the grass had turned a pale yellow color, as would be expected if burned by the lime in the gravel. Hause also testified that the three-inch drop from the new asphalt to the shoulder would have required the contractor to place gravel there.

In contrast to this testimony, the jury heard Pollich testify that he did not remove any gravel. The jury determines the credibility of the witnesses and the weight given to their testimony. ***York***, 158 Wis.2d at 493, 463 N.W.2d at 367. Based on all the evidence presented to the jury, a question of fact existed. The jury heard the testimony and reached a verdict. There was sufficient evidence to support the finding of the jury and we affirm.

The second issue raised in the appeal is a contention that some of the evidence heard by the jury was not admissible, and therefore not credible. Pollich directs this court's attention to the evidence of the content of the anonymous call and to the reference made to the outcome of the municipal trial. While this evidence may or may not have been ruled admissible by the trial court, Pollich's failure to object when it was offered precluded a ruling on admissibility. There must be an objection when evidence is offered for the admission of evidence to later be reversible error. ***Chitwood v. A.O. Smith***

***Harvestore Prods., Inc.,*** 170 Wis.2d 622, 636, 489 N.W.2d 697, 704 (Ct. App. 1992). This court will not review issues raised for the first time on appeal. ***Bank One, Appleton, NA v. Reynolds,*** 176 Wis.2d 218, 222, 500 N.W.2d 337, 339 (Ct. App. 1993). Any objection to evidence must be made at the time the evidence is introduced; otherwise the court will deem any contest to the evidence waived. ***Bennett v. State,*** 54 Wis.2d 727, 735, 196 N.W.2d 704, 708 (1972).

Pollich did not object to any of the evidence offered at trial. The trial court is under no obligation to represent a pro se defendant and offer objections to suspect testimony or evidence. Because Pollich did not challenge the admissibility of the evidence in court, he is precluded from bringing this issue on appeal. The issue of admissibility is waived, and we affirm the judgment of the trial court.

*By the Court.*—Judgment affirmed.

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