COURT OF APPEALS
DECISION
DATED AND RELEASED

March 26, 1997

No. 96-2833-CR

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

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

KATHLEEN S. BURCHELL,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Walworth County: JOHN R. RACE, Judge. *Affirmed*.

BROWN, J. Kathleen S. Burchell appeals from a judgment of conviction for operating a motor vehicle with a prohibited blood alcohol concentration. Burchell lost a pretrial challenge to the complaint where she argued that it did not support a conclusion that she was the person who committed the offense. She renews this claim on appeal. Moreover, Burchell argues that her OWI conviction is void under the double jeopardy clause

because it followed an administrative suspension of her license. We reject both claims and affirm the judgment.

The pertinent facts are undisputed. On April 11, 1996, the State filed a complaint charging Burchell with operating a motor vehicle while under the influence of an intoxicant and with a prohibited blood alcohol concentration. *See* § 346.63, STATS.

The complaint was a standard-form document that had various blanks which the person completing the form could fill in or check off, thus molding the form to fit different arrest scenarios. The caption listed Burchell's full name and her date of birth. Other parts of the form were checked off to indicate that "the arresting officer personally observed the defendant operate a motor vehicle" and that "the defendant ... identified ... herself as the above-named defendant" after the arresting officer made contact with her.

As noted, Burchell's counsel filed a pretrial motion challenging the adequacy of this complaint. During oral argument, counsel rhetorically asked, "[H]ow is this defendant identified?" Counsel further contended that the form did not provide enough information to link the person whose name is listed on the form to the person who actually committed the offense.

The trial court, however, rejected the motion. It reasoned that the inclusion of Burchell's date of birth was sufficient to support an inference that she was properly identified.

The standards we apply to measure the adequacy of a criminal complaint are well settled. A complaint is sufficient if it alleges facts that could lead a reasonable person to conclude that the person probably committed a crime. *See* ***State v. O'Connell***, 179 Wis.2d 598, 604, 508 N.W.2d 23, 25 (Ct. App. 1993). One of the elements that a complaint must reasonably establish is that the accused has been properly identified. *See* ***id***. The issue of whether a complaint meets a required standard is a matter we review independently of the trial court. *See* ***id.***

On appeal, Burchell argues that this complaint does not reasonably identify her because it only contains her name and her date of birth. If this is all of the information that the complaining officer had about her, she contends, how can a reviewing court be certain that the officer had the right person?

The State responds that this complaint reveals more information than that. According to the State, the complaint also informs a reviewing court that the arresting officer saw Burchell driving a car and that she identified herself to the officer.

We conclude that this complaint is legally sufficient. It reveals to the court that the officer not only saw Burchell, but that he was able to confirm that this person actually was Burchell because she told him who she was. The complaint thus provides enough information to support a conclusion that the officer who arrested Burchell properly identified her.

Burchell's next claim is that the judgment is void under the double jeopardy clause because this conviction followed an administrative suspension of her license. This claim, however, fails under the supreme court's recent decision in ***State v. McMaster***, 206 Wis.2d 30, 33-34, 556 N.W.2d 673, 674-75 (1996).

By the Court. – Judgment affirmed.

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