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DISTRICT I

September 1, 2026

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

2024AP1295-CR

State of Wisconsin v. Angel Monge Mathuzima
(L.C. # 2020CF2609)

Before Donald, C.J., Colón, P.J., and Geenen, J.

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).

Angel Monge Mathuzima appeals from a judgment, entered on a jury's verdict, convicting him of second-degree reckless homicide with use of a dangerous weapon as a party to a crime. Mathuzima also appeals from an order denying his postconviction motion. He contends that trial counsel was ineffective for failing to object to the use of a "numbers only" jury. 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 (2023-24).¹ The judgment and order are summarily affirmed.

One night in September 2019, shortly after midnight, J.F., B.C., and R.S. were walking home from a West Allis bar. Two people on bicycles—Mathuzima and his wife, Shirley—came up behind the men. As Mathuzima and Shirley passed them, R.S. made a comment; according to J.F., R.S. jokingly said he was tired of walking and wished he had a bike, but according to Shirley, he said, “I want your fucking bike.” Shirley and R.S. began arguing. Shirley got off the bike and the two got into a physical altercation. At one point, R.S. had Shirley in a headlock. Mathuzima then joined the fray. Shirley broke away from R.S., after which she said that R.S. was on top of Mathuzima, beating him. J.F. and B.C. caught up to the fight and pulled R.S. and Mathuzima apart. J.F. heard Mathuzima say, “Let’s go, let’s go, let’s go.”

When Mathuzima and Shirley finally left, Shirley saw that he was bleeding from a cut on his finger. Mathuzima told her that he had cut his hand with “the knife.” Shirley later explained that Mathuzima usually carried a pocket knife, although she never saw it again after that night. Shortly after Mathuzima and Shirley rode away, R.S. collapsed on the ground. J.F. and B.C. discovered stab wounds to R.S.’s chest and left shoulder. The chest wound was four inches deep and penetrated R.S.’s heart, killing him.

Mathuzima and Shirley were each initially charged with felony murder as a party to a crime, with simple battery as the predicate offense. Before trial, Mathuzima’s charge was upgraded to first-degree reckless homicide as a party to a crime with use of a dangerous

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

weapon.² When voir dire began, the trial court told the prospective jurors, “I’m just going to call you by your number.” Neither party objected. The jury convicted Mathuzima of the lesser-included offense of second-degree reckless homicide, and the trial court imposed 25 years’ imprisonment.

Mathuzima filed a postconviction motion alleging his trial attorney had been deficient for failing to object to the trial court’s use of a “numbers only” jury without the required findings and that this deficiency prejudiced him because the jury format “denied [Mathuzima] his constitutional right to the presumption of innocence and a fair trial.” The trial court denied the motion, explaining that “[t]he concern that the defendant’s jury might have speculated as to the reason for anonymity and potentially concluded that the defendant is a bad or dangerous person simply does not exist in this case” because “the court did not enter any order for anonymity, so the jury was never advised to shield their identities from the defendant” and because “several jurors were referred to by name during jury selection.” Thus, the trial court concluded there was no basis for objection, so trial counsel was not ineffective. Mathuzima appeals.

Before we can review most issues on appeal, those issues must be preserved in the circuit court, typically by contemporaneous objection. See *State v. Huebner*, 2000 WI 59, ¶¶10-13, 235 Wis. 2d 486, 611 N.W.2d 727; see also *State v. Olexa*, 136 Wis. 2d 475, 482, 402 N.W.2d 733 (Ct. App. 1987). Because trial counsel failed to object to the use of juror numbers, Mathuzima’s postconviction motion alleged he had received ineffective assistance of trial counsel. See *State ex rel. Rothering v. McCaughtry*, 205 Wis. 2d 675, 677-78, 556 N.W.2d 136 (Ct. App. 1996).

² In exchange for truthful testimony against Mathuzima, Shirley was allowed to plead guilty to the felony murder charge; she was sentenced to 10 years’ imprisonment.

To demonstrate ineffective assistance of counsel, “the defendant must prove (1) that trial counsel’s performance was deficient; and (2) that this deficiency prejudiced the defendant.”

State v. Dillard, 2014 WI 123, ¶85, 358 Wis. 2d 543, 859 N.W.2d 44.

Whenever juror information is withheld, “due process concerns are raised regarding a defendant’s rights to an impartial jury and a presumption of innocence.” *State v. Tucker*, 2003 WI 12, ¶¶11, 19, 259 Wis. 2d 484, 657 N.W.2d 374. This is true whether the circuit court employs a “numbers” jury, where juror information is only withheld from the record, or an “anonymous” jury, where juror information is withheld from everyone including the parties. Thus, “before a circuit court restricts any juror information in an individual case, it should determine that the jurors are in need of protection and take reasonable precautions to avoid prejudice to the defendant.” *Id.*, ¶17; *see also State v. Britt*, 203 Wis. 2d 25, 34-36, 553 N.W.2d 528 (Ct. App. 1996). A circuit court decision regarding the restriction of juror information is reviewed for a proper exercise of discretion. *See Tucker*, 259 Wis. 2d 484, ¶20. To properly exercise its discretion, “a circuit court must ‘apply the correct standard of law to the facts at hand.’” *Id.*, ¶20 (citation omitted). We will reverse a discretionary decision if that decision is based on an error of law. *Id.*

As noted, the trial court denied Mathuzima’s postconviction motion. Among other reasons, the trial court noted that it had not ordered anonymity, so the jury was not an anonymous jury. The State similarly argues that the jury was not an anonymous jury, or even a numbers jury, because six different jurors were referred to by name and because the parties had access to the jury information. Neither *Tucker* nor *Britt* specifies a threshold level of anonymity before they apply. *Tucker* notes that however characterized, “if restrictions are placed on juror identification or information,” due process is implicated. *Id.*, 259 Wis. 2d 484, ¶11. In *Britt*, as

here, the parties had full access to juror information, but we still concluded the jury was anonymous because “the public process of jury selection ... was nonetheless restricted.” *Id.*, 203 Wis. 2d at 33.

This case is not sufficiently distinguishable from *Tucker*, where the trial court referred only to its own practice of using numbers “without specifically noting any particular factors” that warranted the use of numbers. *Id.*, 259 Wis. 2d 484, ¶21. Thus, the supreme court concluded that despite a deferential standard of review, the circuit court in *Tucker* “erroneously exercised its discretion by failing to apply the correct standard of law, namely the two-prong test announced in *Britt*.” *Tucker*, 259 Wis. 2d 484, ¶20. The trial court here similarly and erroneously exercised its discretion when it made an error of law and referred to jurors by numbers without first applying the two-prong test initially set out in *Britt*.

At a minimum, then, trial counsel was deficient for failing to object to the numbers-only process. However, Mathuzima is not entitled to relief because he has not sufficiently pled prejudice from trial counsel’s deficient performance. See *State v. Balliette*, 2011 WI 79, ¶¶18, 24, 336 Wis. 2d 358, 805 N.W.2d 334.

Mathuzima’s postconviction motion does not allege any facts that demonstrate the jury had actually developed a bias against him because numbers were used in voir dire instead of names. In any event, Mathuzima cannot demonstrate prejudice from counsel’s deficiency because the use of the numbers jury in this case was harmless error.

An error is harmless if it is clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error. See *Tucker*, 259 Wis. 2d 484, ¶26. Here, there

was ample evidence of Mathuzima's guilt. First, Mathuzima did not dispute stabbing R.S.; his defense was that he reasonably believed he used the force necessary to defend Shirley.

Second, a person is only privileged to use deadly force in defense of a third person if he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to the third person, *see* WIS. STAT. § 939.48(4), and the testimony of three witnesses demonstrated that Shirley was not at imminent risk of death or great bodily harm. J.F. testified that there was merely a "scuffle" between Shirley and R.S. and that it was not until Mathuzima joined the fight that all three were "tangled up in each other on the ground." A neighbor—who had no potential bias because she did not know the parties—testified she saw a man who had been on a bicycle appear to punch another man and then yell, "Come on, let's go," before fleeing. And Shirley herself testified that Mathuzima continued fighting with R.S. even after she was free from the headlock.

Third, Mathuzima's actions and statements after the confrontation strongly supported his guilt. Shirley testified that Mathuzima told her shortly after the homicide that he "fucked up" and that he "stabbed the guy." Rather than stay at the scene, he chose to flee and then disposed of the knife. These actions demonstrate Mathuzima's consciousness of his own guilt.

Finally, Mathuzima's testimony was inconsistent with his claim of self-defense. He testified that he lost consciousness and awoke to R.S. on top of him. Mathuzima no longer had his knife in his hand. Mathuzima suggested R.S. was stabbed when B.C. "dropped his weight on" both him and R.S. But that scenario is inconsistent with a self-defense or defense of others claim. In addition, Shirley never testified that B.C. tackled Mathuzima and R.S., that B.C. "dropped his weight" on them, or that Mathuzima lost consciousness.

Thus, in light of the overwhelming evidence of Mathuzima’s guilt, we conclude that the record conclusively demonstrates that Mathuzima was not prejudiced by counsel’s failure to object to a “numbers” jury because it is clear beyond a reasonable doubt that a rational jury would have found Mathuzima guilty notwithstanding the circuit court’s error. The trial court properly denied the postconviction motion, even if it utilized the wrong reasoning.

Upon the foregoing, therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. See 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