

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 9, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

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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.

**Appeal No. 2025AP879-CR
STATE OF WISCONSIN**

Cir. Ct. No. 2012CF353

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

DEMETRIUS L. COOPER,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Waukesha County:
MICHAEL O. BOHREN, Judge. *Affirmed.*

Before Lazar, P.J., Gundrum, and Grogan, JJ.

Per curiam opinions 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).

¶1 PER CURIAM. Demetrius L. Cooper appeals from a circuit court judgment convicting him of attempted first-degree intentional homicide after a five-day jury trial.¹ Cooper argues that the court erred in denying his request to instruct the jury as to the lesser-included offense of recklessly endangering safety. For the reasons that follow, we affirm.

¶2 As relevant to this appeal, Cooper was convicted of the attempted first-degree intentional homicide of shooting victim, Thomas.² Cooper appealed his conviction to this court, arguing that his trial counsel was ineffective for failing to successfully litigate Cooper's motion to suppress evidence. We affirmed Cooper's convictions on direct appeal. See *State v. Cooper*, No. 2016AP1099-CR, unpublished slip op., ¶1 (WI App Dec. 13, 2017).³

¶3 Cooper subsequently filed a *Knight*⁴ petition with this court asserting appellate counsel was ineffective for, among other omissions, failing to challenge the circuit court's decision not to submit the lesser-included-offense instructions to the jury as to the shooting of Thomas. After ordering a circuit court factfinding hearing, we issued an order in July 2024 reinstating Cooper's appellate rights, though only as to the lesser-included-offense issue. This appeal follows.

¹ The jury also convicted Cooper of first-degree recklessly endangering safety and intimidation of a witness. Neither of those convictions is at issue in this appeal.

² We use pseudonyms to refer to the victims.

³ Our opinion on Cooper's original appeal offers a thorough discussion of the factual background, which we incorporate by reference here. Our focus in this opinion is on the facts relevant to Cooper's conviction for attempted homicide.

⁴ *State v. Knight*, 168 Wis. 2d 509, 518-19, 484 N.W.2d 540 (1992).

¶4 The facts pertinent to this appeal date back to 2011. The State charged Cooper with several offenses arising from Cooper allegedly staking out the residence of Thomas and his wife, Mary, and firing multiple gunshots at them as they took their dogs outside. About three months before the November 2011 shooting, Thomas had testified against Cooper at a preliminary hearing in Rock County, Wisconsin in which Cooper was charged with various drug and bail-jumping offenses. A trial date had been set for December 2011.

¶5 Thomas was on the State's witness list for Cooper's then-upcoming Rock County trial. Working as a confidential informant, Thomas told police he was getting his heroin from Cooper. Thomas conducted four controlled buys from Cooper, who would send his middleman, Eddie Matlouck, to deliver the heroin and collect the money. Both Cooper and Matlouck were charged with several criminal offenses as a result. However, Matlouck reached a plea agreement that required him to testify against Cooper. He told police that Cooper would take phone calls from people wanting to buy heroin and tell Matlouck where to meet them to complete the transaction.

¶6 Prior to the November 2011 shooting, Cooper told his friend, Romaine Isby, that if Cooper were to kill Thomas, Cooper would be acquitted on those pending drug charges because Thomas would not be around to testify. At trial, Isby testified that Cooper had said, "no witness, no trial." Cooper's initial plan was to check online court records to see if Thomas had any court appearances scheduled so that he could follow Thomas to court and shoot him there. Thomas had a pending Dane County case in Madison, and Cooper planned to shoot him there when he appeared for his next hearing, but Isby told him that "was a dumb idea" because it was too public.

¶7 In his first actual attempt to silence Thomas, Cooper tried to lure him to an isolated location by sending Thomas a fraudulent letter with the Bank of America logo on it. The letter informed Thomas he had inherited money but needed to come to a specified location in Rockford, Illinois, with two forms of identification to collect his inheritance. Cooper's plan to lure and kill Thomas did not work because Mary recognized it as a scam.

¶8 Isby testified that, because the inheritance scam had failed, Cooper "had to go to phase two of going to this guy's house." Accordingly, Cooper found Thomas' address on the internet. The day before the shooting, Cooper called Isby and told him to come over. When Isby arrived, a man named Holice Wiggins also was there. Cooper asked Wiggins to take him to Waukesha in exchange for gas money. Wiggins agreed. Cooper gave Wiggins an address to enter into his GPS unit. According to Isby, the sole purpose of the trip was to find Thomas' house. Upon locating the house that night, the three returned to Janesville.

¶9 Isby stated that after the trip, Cooper noted that the number of rivers and lakes they passed on the way would make it easy to dispose of his gun. Wiggins allowed police to inspect his vehicle after the shooting; Thomas' address was the first entry in the "recent route" screen of Wiggins' GPS unit.

¶10 On the night of the shooting, Thomas and Mary had recently returned home when they went outside to take their dogs out and someone began shooting at them. Police found three .45-caliber shell casings in the yard and determined the shooter had stood roughly 130 feet from the house. One bullet hit a window next to the door and another hit above the door. No strike point from the third was ever located.

¶11 When officers asked Thomas who would want to shoot him, he immediately explained that he had testified against Cooper at the preliminary hearing and that the case was scheduled for trial the next month. Thomas also described the truck the shooter drove.

¶12 Isby testified that Cooper came to Isby's house on the night of the shooting. Cooper was dressed entirely in black clothing. He had a .45 caliber handgun with him and a portable GPS system on the seat of the truck. Cooper had borrowed the GPS system from yet another friend. Cooper told Isby he was going to drive to Waukesha to kill Thomas. Isby further stated that Cooper used a shoelace to tie his gun to the rental truck's engine compartment so police would not find it if Cooper was stopped.

¶13 After the shooting, Cooper drove the rental truck to Isby's house and told Isby how the shooting had unfolded. Cooper said he knew it was Thomas whom he shot at, he fired four or five shots, and he thought he had hit someone because he heard the woman yelling to call the police. The gun jammed, and Cooper ran.

¶14 The shoelace was found in the rental truck when police searched it. Police also recovered the GPS unit Cooper had borrowed on the night of the shooting—an address near Thomas' was the top entry in the unit. The owner of the GPS unit stated he had not typed in the address, had not driven to the address, and did not know whose address it was. He further said that he saw Cooper with a gun the day of the shooting and reported Cooper said that he wanted to use hollow-point bullets because "if he [was] going to shoot somebody he wanted [there] to be a big hole."

¶15 After his arrest, Cooper began a letter-writing campaign from jail to try to beat both the shooting and the drug charges against him. Before either case went to trial, Matlouck received several letters with return addresses for people whom he did not know. None of the letters to Matlouck were in the same handwriting, but each one referenced things Matlouck and Cooper used to do together. The letters also referenced the Rock County drug charges. They asked Matlouck for various things related to the charges, such as “help me,” and “I’m begging you not to do this to me,” and “Bro I need your help cause it ain’t looking good for me.” Finally, the letter-writer in each instance asked Matlouck to write back, though not to the name and address on the letters.

¶16 Matlouck did not open the letters. Instead, he gave them to his social worker, who provided the unopened letters to law enforcement. One contained a script for an affidavit Matlouck should file claiming Cooper was innocent and retracting any statements Matlouck made about him. Once Waukesha officers came to prison, showed Matlouck the content of the letters, and asked him who they were from, Matlouck said he thought they all came from Cooper.

¶17 Cooper also sent his friend Ontario White letters asking him to pressure Wiggins and Isby not to testify against Cooper and to create an alibi for him for the night of the shooting. Cooper sent several other people letters or otherwise tried to get them to refuse to testify, to pressure others not to do so, or to corroborate a false alibi. All such letters were ultimately obtained by police.

¶18 When Cooper was in the Rock County jail, he met a fellow inmate named Zach Terpstra. Cooper used Terpstra’s name on several of the letters sent to Matlouck. Terpstra testified that he had never met Matlouck or sent him any

letters. Terpstra further testified that, although Cooper told Terpstra that the shooting went down exactly as Isby later testified it had, Cooper planned to blame Isby for the shooting. Cooper offered to pay Terpstra to lie and say he had heard Isby admit to the shooting. Terpstra initially lied to the defense investigator but later came clean, telling police that Cooper had admitted both to sending Thomas the fraudulent bank letter and to the shooting in 2011.

¶19 The State also presented evidence at trial that Cooper had solicited his girlfriend to help him escape his criminal charges. In the first request, Cooper instructed his girlfriend to mail the Rock County District Attorney's office a letter purporting to be from Thomas saying he was moving to Las Vegas, did not want to testify, and would invoke his Fifth Amendment rights or otherwise claim coercion if called at trial. Cooper instructed his girlfriend how not to leave fingerprints or DNA on the letter or the envelope. In the second letter, Cooper directed his girlfriend to pretend to be her mother, whom Matlouck had dated, and to ask Matlouck not to testify against Cooper.

¶20 As previously noted, the jury convicted Cooper of, among other offenses, attempted first-degree intentional homicide for trying to kill Thomas. On appeal, Cooper contends that the circuit court erred in denying his request for the lesser-included jury instruction of recklessly endangering safety as to Thomas. Cooper seeks a new trial on that basis.

¶21 A defendant is entitled to a lesser-included jury instruction "when reasonable grounds exist in the evidence both for acquittal on the greater offense and conviction on the lesser offense." *State v. Miller*, 2009 WI App 111, ¶48, 320 Wis. 2d 724, 772 N.W.2d 188. Whether the evidence permits giving such an

instruction is a question of law that we review de novo. See *State v. Kramar*, 149 Wis. 2d 767, 792, 440 N.W.2d 317 (1989).

¶22 Here, we are satisfied that the circuit court properly denied Cooper's request for the lesser-included jury instruction. Although we agree with the parties and the circuit court that the evidence supported giving the lesser-included instructions for Cooper's conduct toward Mary, there were no reasonable grounds in the evidence to support a conviction of recklessly endangering safety with respect to Thomas. Thomas was the intended target, and Mary was merely collateral damage, which is why the reckless-endangerment instruction was properly given as to the attempted homicide of Mary. It was not, on the other hand, appropriate as to Cooper's shooting of Thomas.

¶23 According to the trial testimony, Cooper meticulously planned this shooting in an attempt to prevent Thomas' trial testimony, and he had made no secret of his plans. Prior to the shooting, Cooper had tried to lure Thomas to Rockford with the inheritance scam so he could kill him there, but Cooper's plan had failed. On the night of the shooting, Cooper drove to Thomas' house for a second time, having staked out the location the night prior. Thomas was not home when Cooper first arrived, so Cooper lay in wait for Thomas to return home. Shortly after he returned home, Thomas went outside with Mary to let their dogs out. Mary came out of the house first. Cooper did not shoot. However, when Thomas exited after Mary, Cooper immediately raised a gun and fired directly toward Thomas at the front of the house.

¶24 Before the shooting, Cooper had told Isby he planned to kill Thomas and Matlouck to prevent them from testifying against Cooper: "no witness, no trial." His letter-writing campaign from his jail cell provided additional concrete

evidence of Cooper's intent to go to any length to prevent his conviction on the drug charges against him. Shooting the State's main witness before the scheduled trial apparently emerged as the winning method by which Cooper thought he could accomplish that goal; the fact that Cooper missed his target in no way diminishes that he went to Thomas' house with the intent to kill him. In sum, there was nothing reckless about Cooper's conduct toward Thomas. Rather, it unequivocally demonstrated intent to kill. Accordingly, we affirm the judgment of conviction.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2023-24).

