COURT OF APPEALS
DECISION
DATED AND FILED

November 19, 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. 2025AP1754-CR **Cir. Ct. No. 2022CF102**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

CHRISTOPHER L. DOMINICK,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Portage County: PATRICIA BAKER, Judge. *Affirmed*.

Before Graham, P.J., Kloppenburg, and Nashold, 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. Christopher Dominick appeals a judgment of conviction for first-degree recklessly endangering safety, arguing that the evidence

presented at trial was insufficient to support the jury's verdict. Dominick was convicted for leading police on a car chase through downtown Stevens Point, and the trial evidence, viewed in the light most favorable to sustaining the verdict, showed that he drove at high speeds through residential areas, failed to stop at stop signs, and nearly collided with at least two occupied vehicles. There was evidence of specific victims whom Dominick endangered and, although Dominick tapped his brakes at times during the pursuit, the jury could reasonably find, based on the totality of the circumstances, that his conduct demonstrated utter disregard for human life. Accordingly, we conclude that the evidence was sufficient to support the jury's verdict, and we affirm the judgment of conviction.

BACKGROUND

¶2 The State charged Dominick with first-degree recklessly endangering safety in violation of WIS. STAT. § 941.30(1).[1] At trial, law enforcement officers and other witnesses testified, and dashcam footage from the pursuing squad cars was admitted into evidence. The trial evidence reflects the following sequence of events.

¶3 On February 17, 2022, officers received reports of a disturbance at a Portage County park involving the driver of a gray Jeep. Officers determined that the Jeep belonged to Dominick's mother, and they suspected that Dominick was

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

The State also charged Dominick with threat to a law enforcement officer, attempting to flee or elude an officer, and bail jumping, and he was convicted of those offenses. Dominick does not challenge his convictions of those offenses on appeal, and we discuss them no further.

the driver based on information that he had taken her Jeep the night before following a dispute.

¶4 Officer Austin Lee responded to the park and encountered the Jeep as it was leaving the parking lot. After following the Jeep for a short while, Lee attempted to initiate a traffic stop, but the Jeep "did not slow down or attempt to stop at any point." With lights and sirens activated, Lee pursued the Jeep as it proceeded through several intersections without stopping at stop signs. Lee estimated that the Jeep was travelling approximately 40 to 50 miles per hour, exceeding the posted speed limits which fluctuated between 25 and 30 miles per hour in that area.

¶5 Another officer, Lieutenant John Moss, joined in the pursuit. The Jeep, which had entered the Stevens Point city limits, turned towards the downtown area and rapidly accelerated. Moss, who was leading the pursuit, estimated that the Jeep reached speeds upwards of 50 to 60 miles per hour in populated residential areas. At one point, when the Jeep was making a wide turn, it crossed the other lane of traffic onto the boulevard and continued through a snowbank before returning to the proper lane of traffic. At that point, Moss believed that the Jeep was no longer under control because "the speeds [it was travelling were] just too fast."

¶6 The pursuit then continued down First Street, near St. Peter's Catholic Church. St Peter's is located on Fourth Avenue, between First and Second Street, and it operates a church and a school. Moss testified that the streets in that part of the city are usually "not that busy," but that there was an event at St. Peter's that night and "both sides of the roadway [were] filled with parked cars," which considerably narrowed the available roadway. Although the squad

car footage does not depict any pedestrians, Moss testified that he saw two pedestrians walking on Fourth Avenue.

¶7 The Jeep, which continued down First Street, ran the stop sign at the intersection of Fourth Avenue, and Moss observed it narrowly avoid a collision with another vehicle that was at least partially in the intersection. Moss had seen the brake lights of the Jeep flash as it approached the intersection, but the Jeep did not swerve to avoid the vehicle and did not stop. By that point, Moss's squad car trailed the Jeep by at least a block and a half, and the distance and the pixelated video quality of the dashcam footage limit what can be seen in the video.

¶8 Moss also testified that he thought he saw the Jeep collide with a vehicle at the next intersection, First Street and Washington Avenue. When he reached that intersection, he observed two vehicles pulled over on opposite sides of the street with their headlights and brake lights on, and Moss believed that at least one of the vehicles must have taken evasive action to avoid a collision with the Jeep. Moss testified: "I was expecting to see a crash when I came up to that intersection, but I didn't see any damage to these vehicles."

¶9 The Jeep did not slow down and pulled even further ahead. Moss terminated the pursuit because he determined that it had become too dangerous to continue. Officers located and arrested Dominick later that night.

¶10 After the close of the evidence at trial, Dominick moved for a directed verdict on the first-degree recklessly endangering safety charge. He argued that the State had not proven that he had acted with "utter disregard for human life," which is the third element of the charge. Dominick maintained that because there was no evidence of any pedestrians in the immediate vicinity of the Jeep's route, because he "braked at least one time" before entering the intersection

of First Street and Fourth Avenue, and because he "succeeded in not getting into an accident with any vehicle," the jury could not find beyond a reasonable doubt that his conduct showed an utter disregard for human life. The circuit court denied his motion on the grounds that, viewing the evidence in the light most favorable to the State, "it is easy to imagine that because of where this location took place and because of what we saw [in the dashcam video], … it is only by an act of God that someone didn't get hurt or killed."

¶11 The circuit court instructed the jury on first-degree recklessly endangering safety, as well as on the lesser-included offense of second-degree recklessly endangering safety.[2] The jury found Dominick guilty of first-degree recklessly endangering safety. Dominick appeals.

DISCUSSION

¶12 Dominick challenges his conviction for first-degree recklessly endangering safety, arguing that the evidence was insufficient to support it. Whether the evidence was sufficient to sustain a guilty verdict is a question of law, which we review de novo. ***State v. Smith***, 2012 WI 91, ¶24, 342 Wis. 2d 710, 817 N.W.2d 410. That said, we give great deference to the determinations made by the trier of fact—here, the jury. ***State v. Hayes***, 2004 WI 80, ¶57, 273 Wis. 2d 1, 681 N.W.2d 203. If any possibility exists that the jury's guilty verdict could have been based on appropriate inferences from the evidence adduced at trial, we will not overturn the verdict, even if we would have drawn different inferences and

[2] The elements of second-degree recklessly endangering safety are the same as the elements of first-degree recklessly endangering safety, except that the second-degree charge does not require proof of utter disregard for human life. *See* WIS JI—CRIMINAL 1345, 1347.

reached a different verdict. ***State v. Poellinger***, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). In other words, we view the evidence and all reasonable inferences therefrom in the light most favorable to sustaining the verdict. ***State v. Edmunds***, 229 Wis. 2d 67, 73, 598 N.W.2d 290 (Ct. App. 1999).

¶13 The elements of first-degree recklessly endangering safety are: (1) that Dominick endangered the safety of another human being, (2) that he engaged in criminally reckless conduct; and (3) that the circumstances of his conduct demonstrated an utter disregard for human life. *See* WIS JI—CRIMINAL 1345. Dominick does not challenge the sufficiency of the evidence that he was the person driving the Jeep as officers pursued it, and he appears to acknowledge that the evidence was sufficient to show that his conduct was criminally reckless. But he challenges the sufficiency of evidence to support the other two elements: that he endangered the safety of another human being, and that the circumstances of his conduct demonstrated an utter disregard for human life.

¶14 Before discussing the evidence, we first address a threshold argument that Dominick makes which pertains to both of the challenged elements. This argument is based on the language of the criminal complaint, as well as constitutional concepts of due process. Dominick points out that the criminal complaint stated that he "did recklessly endanger the safety of individuals *at St. Peter's Church/School*" (emphasis added), and he suggests that this language limited the evidence that the jury could properly consider to evidence of endangerment of any individuals who were "gathered at" or "outside" the church. Dominick suggests that the prosecutor improperly expanded the scope of the charge at trial when the prosecutor asked the jury to determine that Dominick endangered the safety and acted with utter disregard towards occupants of the

vehicle that he nearly collided with at the intersection of First and Fourth and at other places during the chase. We reject this threshold argument for the following reasons.

¶15 First, to the extent that Dominick is attempting to raise arguments about constitutional error that he did not raise during the circuit court proceedings, any such arguments are forfeited.[3] *See* ***State v. Counihan***, 2020 WI 12, ¶¶25-37, 390 Wis. 2d 172, 938 N.W.2d 530 (discussing the forfeiture rule).

¶16 Second, when reviewing the sufficiency of the evidence, this court must consider all of the evidence that was admitted at trial, even if some of the evidence was improperly admitted. *See* ***State v. Smith***, 2004 WI App 116, ¶32, 275 Wis. 2d 204, 685 N.W.2d 821, *rev'd on other grounds*, 2005 WI 104, 283 Wis. 2d 57, 699 N.W.2d 508. Accordingly, in addition to being forfeited, any argument that the circuit court erred in admitting evidence of conduct beyond the immediate vicinity of St. Peter's would be irrelevant to our assessment of the sufficiency of the evidence.

¶17 Finally, on the merits, we do not agree that the criminal complaint limits the scope of the charge in the manner that Dominick suggests. To be sure, the complaint focused on victims *at the church and school*, but we do not read that language as requiring the victims to be within the physical boundaries of

[3] For example, Dominick may be arguing that the prosecution violated due process because the complaint did not adequately inform him of the nature of the charge, or that the charge was duplicitous because there were multiple victims of his conduct. But these legal challenges are distinct from arguments about the sufficiency of the evidence. *See* ***State v. Kempainen***, 2015 WI 32, 361 Wis. 2d 450, 862 N.W.2d 587 (addressing the due process right of adequate notice); ***State v. Lomagro***, 113 Wis. 2d 582, 586, 335 N.W.2d 583 (1983) ("Duplicity is the joining in a single count of two or more separate offenses.").

St. Peter's parcel of real estate. Rather, the complaint is more reasonably interpreted to refer to victims in proximity to St. Peter's, which would include the sidewalks and roads in the general vicinity of the car chase. Indeed, the complaint's statement of probable cause referred to "multiple cars and people" that were "*in the area of First St and Fourth Ave*," (emphasis added), and this reference is clearly meant to identify the human beings whom Dominick was charged with endangering.

¶18 Accordingly, for all these reasons, we reject Dominick's threshold argument about the scope of evidence that the jury could consider in reaching its verdict, and that we can consider on appeal. We now address Dominick's arguments about the challenged elements.

I. Element 1: Endangering the Safety of Another Human Being

¶19 As noted, Dominick challenges the sufficiency of the evidence that he endangered the safety of another human being. To satisfy its burden, the State did not need to prove that a person was actually injured, ***Balisteri v. State***, 83 Wis. 2d 440, 454, 265 N.W.2d 290 (1978), only that a person's safety was "actually endangered" by the defendant's conduct. ***Id.*** at 455. *See* WIS. STAT. § 941.30(1).

¶20 Here, Dominick appears to be arguing that the State relied on a theory of generalized potential harm that flowed from his dangerous driving. That is, according to Dominick, the State relied exclusively on the "truism" that "leading the police on a high-speed car chase endangers everyone on the road," and it failed to identify any human being who was actually endangered by his conduct. We disagree—based on the trial evidence, the jury could reasonably infer that Dominick endangered the safety of several specific individuals.

¶21 First, the jury could reasonably have credited Moss's testimony about the near-collision at the intersection of First and Fourth, and could reasonably have inferred that the other vehicle was occupied by at least one person, the driver, who was actually endangered by Dominick's conduct. Dominick characterizes the near-collision at First and Fourth as "uncharged conduct" and asserts that he "was not charged with endangering the lives of the motorists at th[at] intersection," but we have rejected this argument about the scope of the charges. *See supra*, ¶¶14-16.

¶22 Second, the jury could reasonably have inferred that Dominick endangered the safety of the occupants of two vehicles at the next intersection, First and Washington. Moss testified that he expected to find a collision at that intersection, and when he arrived at that intersection, the occupied vehicles had pulled to the side of the road with their lights on and brakes engaged. This testimony about the position of these vehicles supports a determination that the drivers had to move out of Dominick's path to avoid a collision.

¶23 Third, although the evidence about pedestrians is less concrete, the jury could reasonably have credited Moss's testimony that he saw two pedestrians walking on Fourth Avenue, and it could reasonably have determined that Dominick endangered their safety. Dominick challenges the reliability of Moss's testimony on this point, arguing that the dashcam video from his squad car did not depict any pedestrians and his testimony about pedestrians changed during cross-examination.[4] However, it is not our role to evaluate the reliability of the trial

[4] Although Moss initially stated the roads were filled with people walking around trying to get into the school, he later acknowledged that he was focused on the pursuit and could only specifically recall the two pedestrians discussed above.

evidence when considering a challenge to the sufficiency of the evidence to support a conviction. ***Balisteri***, 83 Wis. 2d. at 451. Rather, we are to determine if there is any rational view of the evidence by which the jury could have reached its verdict. ***Poellinger***, 153 Wis. 2d at 507; ***Outagamie County v. Michael H.***, 2014 WI 127, ¶21, 359 Wis. 2d 272, 856 N.W.2d 603 ("[I]t is the role of the jury, not an appellate court, to balance the credibility of witnesses and the weight given to the testimony of those witnesses." (citation omitted)). Here, there is.

¶24 As shown, there was evidence that Dominick endangered the safety of multiple individuals in the general proximity of St. Peter's and in the vicinity of the chase. The fact that the State did not identify any of these individuals by name is immaterial—as Dominick concedes, "[u]nidentified or anonymous victims are certainly no less deserving of justice." That is, evidence of unnamed victims can constitute proof that a defendant endangered the safety of another human being. And, to the extent that Dominick is tacitly suggesting that the State failed to satisfy its burden of proof because it did not identify one of these several individuals as the specific victim of the recklessly endangering safety charge, he fails to cite any legal authority supporting an argument that this was legally required, and we reject any such argument on that basis. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (we need not address undeveloped and unsupported arguments). For all of these reasons, we conclude that the evidence was sufficient to support the jury's determination that Dominick "endangered another human being."

II. Element 3: Utter Disregard for Human Life

¶25 We now turn to Dominick's argument that the evidence was insufficient to prove that his conduct showed an "utter disregard for human life."

The utter disregard standard requires a showing of "more than a high degree of negligence or recklessness" and is evaluated under an objective standard on the basis of what a reasonable person would have known. ***Wagner v. State***, 76 Wis. 2d 30, 46, 250 N.W.2d 331 (1977); *see also* ***State v. Jensen***, 2000 WI 84, ¶17, 236 Wis. 2d 521, 613 N.W.2d 170.[5]

¶26 In an utter disregard analysis, the jury is to consider the totality of all relevant circumstances, including "what the defendant was doing; why [the defendant] was doing it; how dangerous the conduct was; how obvious the danger was[;] and whether the conduct showed any regard for human life." ***State v. Burris***, 2011 WI 32, ¶32, 333 Wis. 2d 87, 797 N.W.2d 430 (citation omitted). In other words, the jury must consider whether the totality of the circumstances, including any acts before, during, or after the crime, showed any regard for human life. *See* ***Edmunds***, 229 Wis. 2d at 77; *see also* ***Burris***, 333 Wis. 2d 87, ¶34. As with any other challenge to the sufficiency of the evidence, our review is "highly deferential," and we will not substitute our judgment for that of the jury unless the evidence, viewed most favorably to 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. ***Jensen***, 236 Wis. 2d 521, ¶23 (citing ***Poellinger***, 153 Wis. 2d at 501).

[5] When ***Wagner*** and other cases like ***Balistreri*** from that era were decided, the utter disregard standard was phrased differently, and required proof of "conduct evincing a depraved mind, regardless of human life." *See* ***Wagner v. State***, 76 Wis. 2d 30, 47, 250 N.W.2d 331 (1977); ***State v. Balistreri***, 83 Wis. 2d 440, 265 N.W.2d 290 (1978). Despite the differences in language, the two standards are substantively the same. ***State v. Miller***, 2009 WI App 111, ¶32, 320 Wis. 2d 724, 772 N.W.2d 188 ("The phrase 'utter disregard for human life' has the same meaning as 'depraved mind, regardless of life,' the former language used in the Wisconsin code until 1987 to denote the aggravating element in crimes of recklessness.").

¶27 Dominick argues that the jury was precluded from finding utter disregard for two reasons: because the State did not present evidence that he saw any pedestrians along the route; and because he braked before entering the two intersections in which he narrowly avoided collisions.

¶28 On both points, his argument relies heavily on ***Balistreri v. State***, 83 Wis. 2d 440, 265 N.W.2d 290 (1978). There, Balistreri had led police on a high-speed pursuit through downtown Milwaukee, driving through red lights and the wrong way down one-way streets and forcing three pedestrians to leap out of the way before the pursuit came to an end when Balistreri's car collided with another vehicle. ***Id.*** at 452-53. However, it was undisputed that prior to the collision, Balistreri turned on his headlights, swerved to avoid a police car, honked his horn, and braked to avoid the collision before ultimately hitting the other vehicle at five to ten miles per hour. ***Id.***

¶29 Our supreme court determined that the evidence was insufficient to prove that Balistreri's conduct "evinced[d] a depraved mind regardless of human life." ***Id.*** at 457-58. This determination relied in part on the lack of evidence that Balistreri saw the pedestrians who had to jump out of the way, much less that he "was willing to hit them." ***Id.*** at 458. Moreover, the court determined that "the uncontroverted evidence that [Balistreri] attempted to avoid a collision [with the vehicle he hit] precludes a finding that his conduct was devoid of concern for others or indifferent to the life of others." ***Id.*** at 457. The ***Balistreri*** court relied on reasoning from ***Wagner***, 76 Wis. 2d at 43-44, 47, in which the court determined that a defendant's swerving in an attempt to avoid striking a pedestrian with his vehicle indicated some regard for human life.

¶30 We agree with Dominick that certain aspects of this case are similar to the facts from ***Balistreri*** and ***Wagner***, and, if ***Balistreri*** and ***Wagner*** were the last word on the utter disregard standard, we might agree with Dominick's challenge to the sufficiency of the evidence in this case. However, subsequent cases have placed our supreme court's reasoning in ***Balistreri*** and ***Wagner*** in its proper context. *See, e.g.*, ***Burris***, 333 Wis. 2d 87; ***State v. Miller***, 2009 WI App 111, 320 Wis. 2d 724, N.W.2d 188; ***State v. Geske***, 2012 WI App 15, 339 Wis. 2d 170, 810 N.W.2d 226. In the wake of these cases, it is apparent that Dominick's challenge to the sufficiency of the evidence of utter disregard must fail.

¶31 In ***Burris***, our supreme court cautioned against establishing per se rules for what can and cannot constitute utter disregard for human life. ***Burris***, 333 Wis. 2d 87, ¶37. As the court explained, in sufficiency-of-the-evidence cases, "[r]eviewing courts may find distinctions between defendants' conduct … useful in reviewing a fact-finder's determination, but their use of such patterns does not mean that new legal standards should be grafted onto the fact-finder's initial determination of whether certain conduct demonstrates an utter disregard." ***Id.*** The ***Burris*** decision quoted ***Miller***, 320 Wis. 2d 724, ¶37, in support of the proposition that Wisconsin courts have "'carefully avoided per se rules in this area and instead [have] consistently applied a totality of circumstances approach to the cases.'" ***Burris***, 333 Wis. 2d 87, ¶38 n.9.

¶32 Then in ***Geske***'s argument, this court rejected Geske's argument that the mere fact that she swerved to avoid a collision precluded the jury from determining that she acted in utter disregard for human life. ***Geske***, 339 Wis. 2d 170, ¶17. Geske had consumed alcohol and prescription medication, was driving well over the speed limit on a busy street, and had run a red light without braking or slowing down, even though her view of cross-traffic was obscured by a large

sign. ***Id.***, ¶¶2-5. Geske attempted to swerve to avoid a collision, but she was unsuccessful and killed the driver of the other vehicle. ***Id.***, ¶3. A jury found Geske guilty of first-degree reckless homicide, which also requires a showing of utter disregard for human life. ***Id.***, ¶¶9-10.

¶33 Geske challenged the sufficiency of the evidence of utter disregard based on the holdings from ***Balistreri*** and ***Wagner***, but we rejected her challenge. ***Id.***, ¶¶12-21. We noted that the jury was required to consider the totality of the circumstances, not any per se rules. ***Id.***, ¶17. We determined that, in contrast to the situation in ***Wagner*** in which the defendant had no warning that the victim would suddenly and unexpectedly appear in his path, the jury could infer that Geske had "ample notice" of the danger and "should have reasonably expected her victims to cross her path," given that the car she collided with "had a green light." ***Id.***, ¶19 (citing ***Wagner***, 76 Wis. 2d at 43-44). We also distinguished the facts from ***Balistreri*** on the ground that the defendant there had taken "numerous actions to avoid collisions," over the course of the pursuit, ***id.***, ¶21 (citing ***Balistreri***, 83 Wis. 2d at 453), whereas Geske could point only to her ineffectual "last-moment swerve," ***id.***, ¶18.

¶34 Dominick's argument about the lack of evidence that he saw pedestrians is unavailing. There was evidence that cars lined both sides of the streets, narrowing the available roadway, and the jury could reasonably infer that an objectively reasonable person in Dominick's place would have understood the inherent danger that he might encounter pedestrians and vehicles as he sped through the busy residential neighborhood at highway speed.

¶35 Likewise, we reject Dominick's argument that the fact that he hit his brakes before narrowly missing hitting vehicles in the intersections shows some

regard for human life and precludes a finding of utter disregard. The ***Balistreri*** and ***Wagner*** cases do not establish a per se rule that braking or other evasive actions necessarily preclude a finding of utter disregard—any such rule would be contrary to ***Burris*** and ***Miller***. Rather, these cases illustrate that such actions may be considered alongside a defendant's other conduct and all of the surrounding circumstances.

¶36 Considering Dominick's braking in the context of the entire pursuit, the jury could infer that Dominick deliberately chose to increase his speed upon entering the residential neighborhoods, where the likelihood of a collision and injury obviously increased. This was not a situation like ***Balistreri***, in which the defendant took numerous preventative measures to avoid a collision. *See* ***Balistreri***, 83 Wis. 2d at 452-53. Here, there is no evidence to suggest that Dominick took any preventative measures other than tapping the brakes, and the jury could reasonably conclude that at high speeds on winter streets, a momentary tapping of the brakes would not significantly reduce his speed so as to mitigate the risk of harm to the occupants of any vehicle he struck. Additionally, the jury was not required to infer that the reason he tapped his brakes was to avoid causing harm to others in a collision. On the contrary, after tapping the brakes, Dominick chose to accelerate through the intersections, and a jury could reasonably infer that it was the evasive maneuvers of the other drivers, rather than any evasive action by Dominick, that prevented a crash and injury that evening.

¶37 Therefore, considering the totality of the circumstances, and viewing the evidence in the light most favorable to sustaining the jury's conviction, we conclude that there was sufficient evidence and reasonable inferences therefrom with which the jury could have found Dominick acted with utter disregard for human life.

CONCLUSION

¶38 Having concluded that the trial evidence was sufficient to support the disputed elements of a first-degree recklessly endangering safety charge, 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.