

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 1, 2015

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

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

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. 2015AP93-CR

Cir. Ct. No. 2012CM1419

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

STEVEN E. STEFFEK,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Winnebago County: DANIEL J. BISSETT, Judge. *Affirmed.*

¶1 REILLY, J.¹ Steven Steffek was convicted of endangering safety by negligent handling of a dangerous weapon, as a party to the crime, after he

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

admitted that he and others on his property fired rifles within shooting distance of his neighbors' residences. He appeals, arguing the evidence at his trial was insufficient as it did not establish that anyone was dodging bullets in a "zone of danger" or that he aided and abetted the commission of a crime by hosting a shooting party. We affirm as the evidence, viewed most favorably toward sustaining the verdict, supports the jury's decision.

BACKGROUND

¶2 Steffek was charged with endangering safety by negligent handling of a dangerous weapon and disorderly conduct, both as party to a crime, after M.S. reported that a .223-caliber bullet hit a chair outside of his home. M.S. was on vacation with his family at the time of the shooting, but his neighbor, B.F., heard gunfire coming from the direction of Steffek's property and the sound of a bullet striking something on M.S.'s property on Memorial Day. B.F. was alarmed enough by the gunfire that he had his family go inside his house right before he heard the bullet strike. Steffek admitted he had been shooting a .223-caliber rifle westward toward M.S.'s and B.F.'s properties on Memorial Day, but Steffek denied that he fired the shot that struck M.S.'s chair.

¶3 At trial, M.S. and B.F. testified that they had previously experienced problems with bullets entering their properties during Steffek's Memorial Day shooting parties. B.F. had voiced his complaints to Steffek. Steffek also acknowledged that sheriff's deputies, responding to an earlier complaint, had examined the shooting range on his property, consisting of two thirteen-inch bull's-eye targets placed in front of two buckets filled with sand and backed with wood to catch bullets shot from distances of fifty and one-hundred yards. He said the deputies had told him that he needed to put up a backstop, but he did not agree

as he felt the surrounding topography would prevent bullets from traveling onto his western neighbors' properties.

¶4 A firearms instructor from the sheriff's department testified at Steffek's trial that a .223-caliber rifle has a maximum range of 8000 feet, so that a bullet fired from such a weapon could "easily" travel the 2645-foot distance to M.S.'s property. A jury convicted Steffek of endangering safety by negligent handling of a dangerous weapon, as a party to the crime, but acquitted him of disorderly conduct. Steffek filed a postconviction motion requesting that his conviction be set aside due to insufficient evidence. The court denied the motion, and Steffek appeals.

STANDARD OF REVIEW

¶5 "The standard for reviewing sufficiency of the evidence is highly deferential to a jury's verdict" and provides that we will not overturn a jury's verdict for insufficient evidence "unless the evidence, viewed most favorably to sustaining the conviction, 'is so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.'" *State v. Beamon*, 2013 WI 47, ¶21, 347 Wis. 2d 559, 830 N.W.2d 681.

DISCUSSION

¶6 Steffek contends that the evidence was insufficient to convict him of endangering safety by negligent handling of a dangerous weapon in two ways. First, he argues that as "there was no one in the zone of danger" when he was shooting, the State could not prove that he was criminally negligent. Second, he argues that the State did not establish a close causal nexus between his actions and

the bullet fired onto M.S.'s property necessary to find that he was a party to the crime. We reject these arguments.

¶7 Steffek does not argue that the jury instructions, which largely followed WIS JI—CRIMINAL 400 and 925 and which were given without objection, were erroneous. Therefore, we evaluate whether there was sufficient evidence to support Steffek's guilt based on the instructions given to the jury. *See State v. Inglin*, 224 Wis. 2d 764, 772-73, 592 N.W.2d 666 (Ct. App. 1999).

¶8 As to whether Steffek's conduct constituted criminal negligence, the jury was instructed in relevant part:

Criminal negligence means the defendant's operation or handling of a dangerous weapon created a risk of death or great bodily harm and the risk of death or great bodily harm was unreasonable and substantial and the defendant should have been aware that his or her operation or handling of the dangerous weapon created the unreasonable and substantial risk of death or great bodily harm.

.... [F]or the defendant's conduct to constitute criminal negligence, the defendant should have realized that the conduct created a substantial and unreasonable risk of death or great bodily harm to another.

For party-to-the-crime liability, the jury was instructed that Steffek could be found guilty for "acting with knowledge or belief that another person is committing or intends to commit a crime, he knowingly either assists the person who commits the crime or is ready and willing to assist, and the person who commits the crime knows of the willingness to assist."

¶9 We find sufficient evidence to support the verdict. At trial, the State argued that Steffek's actions created a risk of death or great bodily harm not only to anyone who might have been on M.S.'s property but also to B.F., who was at home and hosting a family gathering. In addition to shooting his own rifle, Steffek

also testified at trial that he had allowed two other people to shoot his rifle and that he invited his brother to bring and shoot his own rifle at targets on his shooting range on Memorial Day.

¶10 A reasonable jury could find beyond a reasonable doubt that Steffek should have known that using a rifle within shooting distance of residential homes, with nothing more than two sand-filled buckets and the surrounding topography to stop stray bullets, created a substantial and unreasonable risk of death or great bodily harm to others. Moreover, knowing this, Steffek could reasonably be found beyond a reasonable doubt to have either directly committed the crime of endangering safety by negligent handling of a dangerous weapon or intentionally aided and abetted in its commission by engaging in and hosting a group target practice on his self-made shooting range. *See* WIS. STAT. § 939.05. We affirm the jury's findings that Steffek was criminally negligent and a party to the crime of endangering safety by negligent handling of a dangerous weapon.

By the Court.—Judgment and order affirmed.

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

