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**DISTRICT II**

September 18, 2024

To:

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Clerk of Circuit Court  
Racine County Courthouse  
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You are hereby notified that the Court has entered the following opinion and order:

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2023AP249-CR

State of Wisconsin v. Christopher M. Moore (L.C. #2021CF1466)

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

**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).**

Christopher M. Moore appeals a judgment convicting him of unlawfully possessing a firearm as a convicted felon, as a repeater. He argues that his constitutional right to present a defense was violated by the circuit court's evidentiary ruling prohibiting him from introducing testimony that his former girlfriend, K.A.C.,<sup>1</sup> called the police to report that he had a gun. Based on 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 We summarily affirm.

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<sup>1</sup> We use initials to protect the victim's privacy. *See* WIS. STAT. RULE 809.19(1)(g) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

According to the complaint, K.A.C. called the police to tell them that Moore violently threatened her with a gun, which he had previously stolen from her. While the police were interviewing K.A.C. at her home, Moore was apprehended by officers at another location. Moore denied threatening K.A.C. and argued that she had planted the gun in his belongings, which were in his car when the police apprehended him, to set him up. Moore was initially charged with eight counts, including charges related to threats that he made against K.A.C., but the prosecutor later dropped several of the charges because K.A.C. was not available to testify. The State proceeded to trial on the remaining counts of unlawfully possessing a firearm as a convicted felon and obstructing an officer.

At trial, Moore sought to introduce evidence that K.A.C. had called the police to report him possessing a firearm, arguing that this was critical to his defense theory that K.A.C. planted the gun. The circuit court, however, excluded the evidence, reasoning that without K.A.C.'s testimony and the full context of her allegations—including her claims that Moore was threatening her—the call might mislead the jury into thinking that K.A.C. called the police solely for the purpose of framing Moore. The court allowed Moore to present other evidence supporting his defense but ruled that the call could not be admitted without the risk of creating a distorted picture of the events. The jury convicted Moore of unlawfully possessing a firearm but acquitted him of the obstruction charge.

Moore contends that the circuit court's exclusion of the call made by K.A.C. violated his constitutional right to present a complete defense. He argues that the call was a critical piece of evidence supporting his theory that K.A.C. planted the gun in his belongings in an effort to set him up. Moore claims that by excluding this evidence, the jury was left to speculate as to why the police were searching for him, undermining his defense and denying him due process.

A defendant has a constitutional right to present a defense but this right is not absolute; it must be balanced against evidentiary rules designed to ensure fairness in the trial process. *Chambers v. Mississippi*, 410 U.S. 284, 294-95 (1973). The circuit court has discretion to exclude relevant evidence “if its probative value is substantially outweighed by the [risk] of ... misleading the jury” or causing “confusion.” WIS. STAT. § 904.03.

The circuit court excluded testimony about K.A.C.’s phone call to the police because its presentation without K.A.C.’s full allegations, which included claims that Moore violently threatened her with a gun at her home, would have led to an incomplete and potentially misleading narrative. Without K.A.C.’s testimony about why she called the police, the court concluded that allowing the jury to hear only that K.A.C. reported Moore as possessing a firearm would have created the false impression that her sole concern was the gun. This selective presentation of evidence would have unfairly skewed the trial in Moore’s favor, contrary to the principles of fairness embodied in the rules of evidence. The court properly exercised its discretion in excluding the evidence because “its probative value [was] substantially outweighed by the [risk] of ... misleading the jury” or causing “confusion.” *See* WIS. STAT. § 904.03.

Moreover, Moore was still able to present his defense that K.A.C. planted the gun through other evidence, including testimony that the gun belonged to K.A.C., and that she had helped him put his belongings in his car, where the gun was located. The exclusion of the call to police did not prevent Moore from advancing his theory, but rather ensured that the jury would not be misled by an incomplete picture of the facts. Moore had sufficient opportunity to argue his defense without the misleading effect of the call. Therefore, we reject Moore’s argument that he was denied his constitutional right to present his defense.

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*