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DISTRICT III

January 21, 2026

To:

Hon. Michael H. Bloom
Circuit Court Judge
Electronic Notice

Frederick A. Bechtold
Electronic Notice

Brenda Behrle
Clerk of Circuit Court
Oneida County Courthouse
Electronic Notice

Kathleen E. Wood
Electronic Notice

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

2024AP2141-CR

State of Wisconsin v. Joel D. Hughes (L. C. No. 2020CF159)

Before Stark, P.J., Hruz, and Gill, 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).

Joel Hughes appeals from a judgment convicting him of possession with intent to deliver cocaine as a repeater, and possession with intent to deliver narcotics. He challenges the sufficiency of the evidence to support the verdicts because the drugs were not recovered from an area that was within Hughes' control at the time of the seizure. 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). We affirm on the ground that the facts in evidence supported a reasonable inference that Hughes had physical possession of the drugs prior to his arrest.

Whether the State presented sufficient evidence to support a verdict is a question of law subject to our independent review. *State v. Booker*, 2006 WI 79, ¶12, 292 Wis. 2d 43, 717 N.W.2d

676. We will affirm “unless the evidence, viewed most favorably to the verdict, is so lacking in probative value and force that no reasonable fact[]finder could have found guilt beyond a reasonable doubt.” *State v. Routon*, 2007 WI App 178, ¶17, 304 Wis. 2d 480, 736 N.W.2d 530. “It is the function of the trier of fact, and not of an appellate court, to fairly resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts.” *State v. Poellinger*, 153 Wis. 2d 493, 506, 451 N.W.2d 752 (1990).

We review the sufficiency of the evidence by comparison to the instructions actually given to the jury, as long as those instructions conform to the statutory requirements of the charged offense. *State v. Beamon*, 2013 WI 47, ¶22, 347 Wis. 2d 559, 830 N.W.2d 681. Here, the circuit court correctly instructed the jury that, in order to prove possession, the State needed to show that Hughes “knowingly had actual physical control of a substance” or that the substance was “in an area over which [Hughes] ha[d] control and [Hughes] intend[ed] to exercise control over the substance.”¹ *See* WIS JI—CRIMINAL 6030.

At trial, Woodruff Police Officers Stanley Lewis and Devon Gaszak testified that they made contact with a man named Timothy Curtis in the parking lot of an O’Reilly Auto Parts store in connection with an ongoing investigation into another matter. During the encounter, the officers observed Hughes walk away from Curtis’s vehicle and enter the store. Lewis recognized Hughes and ascertained from dispatch that he had an outstanding warrant.

¹ To the extent Hughes contends that a different legal definition of possession should have been used, he forfeited that argument by not objecting to the jury instructions. *See* WIS. STAT. § 805.13(3); *State v. McKellips*, 2016 WI 51, ¶47, 369 Wis. 2d 437, 881 N.W.2d 258.

After they finished speaking with Curtis, the officers followed Hughes into the store to question him about the warrant. Upon making contact with Hughes near the entrance of the store a few minutes later, the officers arrested Hughes, searched his person, and recovered a small plastic baggie of cocaine from his wallet.

Detective Sergeant Timothy Gensler from the Oneida County Sheriff's Department testified that later on the evening of Hughes' arrest, someone using Hughes' account made two recorded phone calls from the jail to someone named "Tim," who Gensler believed to be Curtis. In the calls, which were played for the jury and admitted into evidence, Hughes described where something was located within the O'Reilly store.² Gensler relayed the information from the phone calls to Detective Sergeant Matthew Tate from the Minocqua Police Department.

Tate testified that Gensler told him, based upon the jail calls, that drugs might have been stashed on the third shelf on an endcap in the back of the store behind some boxes. Dennis Holmes, an O'Reilly manager, met with Tate at the store the following morning. Holmes accompanied Tate to the described area, assisted him in searching, and found two baggies packaged for sale containing cocaine and one baggie packaged for sale containing fentanyl, plus a syringe and two empty baggies, behind a boxed floor jack at shoulder-height on the third shelf of an endcap of an aisle. The baggies had the same spade pattern on their packaging labels as the baggie that had been recovered from Hughes' person at the time of his arrest.

² Although no transcript of the jail calls was introduced into evidence, the State does not dispute the accuracy of a partial transcript of one of the calls included in Hughes' brief. The transcript attributes Hughes as having told the person he called to find his "lenses" or "light" in the "third row" of the "aisle that we're in ... behind two square boxes ... all the way back of the aisle ... [at] shoulder height."

Hughes took the stand in his own defense and testified that he and Curtis had been at the O'Reilly store looking for a taillight assembly to repair Curtis's vehicle. Hughes testified that, in his calls to Curtis from the jail, he was merely trying to direct Curtis to the location in the store where he could find taillight lenses.

On appeal, Hughes contends that there was insufficient evidence for a jury to reasonably conclude that Hughes had immediate access, much less control, over the area in the O'Reilly store from which the drugs were recovered at the time that they were recovered. There is nothing in either the statutes or the jury instructions, however, that requires the State to prove that the defendant's possession of drugs occurred at the time the drugs were seized or at the time of the defendant's arrest.

The State's theory of the case was that Hughes had actual possession of the drugs *before* hiding them in the O'Reilly store. The jury could fairly draw the inference that Hughes was the person who possessed and then hid the drugs from the following facts: (1) Hughes left the parking lot and entered the store upon seeing the police; (2) Hughes had the opportunity to hide the drugs; (3) Hughes directed Curtis to the specific location where police later found the drugs; and (4) the packaging on the drugs recovered from the store matched the packaging on the drugs recovered from Hughes' person.

The jury was not required to believe Hughes' claim that he was directing Curtis where to find taillight parts, particularly when there was no evidence presented that taillight parts were actually located in the area Hughes described. Furthermore, if Curtis had hidden the drugs, there would be no need for Hughes to describe where to find them. Accordingly, we conclude that the evidence was sufficient to support the verdicts.

Upon the foregoing,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21
(2023-24).

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

Samuel A. Christensen
Clerk of Court of Appeals