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DISTRICT I

February 3, 2026

To:

Hon. David C. Swanson
Circuit Court Judge
Electronic Notice

John D. Flynn
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

John T. Wasielewski Electronic Notice

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

State of Wisconsin v. Charles Z. Kendrick (L.C. # 2019CF4723)

Before White, C.J., Colón, P.J., and Donald, J.

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).

Charles Z. Kendrick appeals from his judgment of conviction entered after a jury found him guilty of second-degree reckless homicide using a dangerous weapon, and possession of a firearm by a felon. He also appeals from the order denying his postconviction motion.¹ Based

¹ Kendrick's trial was before the Honorable David L. Borowski, who we refer to as the trial court. Kendrick's postconviction motion was decided by the Honorable David C. Swanson as the successor court to that calendar, and we refer to him as the postconviction court.

upon our review of the briefs and record, we conclude that this case is appropriate for summary disposition. *See WIS. STAT. RULE 809.21 (2023-24).*² We summarily affirm.

The charges against Kendrick stem from the shooting death of Candice Buford in October 2019. Police responded to a call regarding a shooting that occurred at a residence, and found Buford lying on a bed with a gunshot wound to her head. Kendrick was at the scene, and admitted to officers that he shot Buford while trying to scare her. He stated that he thought the gun was unloaded, but that Buford had grabbed for it and it went off.

Officers also spoke with a witness to the shooting, Quiasha Hendree. Hendree told police that she, Kendrick, and Buford all lived at the residence, and that both she and Buford have children with Kendrick. Hendree said the three of them had been out at a night club drinking, and that they began arguing about “relationship issues” when they got home. The argument turned physical, and Buford eventually went to her bedroom and laid down on the bed. Kendrick then entered Buford’s bedroom with his gun and pointed it at her head. Hendree said that Buford moved her head, and the gun went off. Kendrick turned to Hendree and exclaimed, “I didn’t know!”

Buford was taken to the hospital and put on life support. She died ten days later.

Kendrick was charged with first-degree reckless homicide using a dangerous weapon and possession of a firearm by a felon. The matter proceeded to a jury trial in September 2021.

² All references to the Wisconsin Statutes are to the 2023-24 version.

At the trial, Hendree testified regarding the events of that night. She stated that at the time of the shooting, Buford was laying on the bed with her eyes closed, turned away from Kendrick, while he had the gun pointed at her head. Hendree said Buford moved her head, as if to turn or get up, and her head hit the gun's barrel and it went off. Hendree stated Buford did not reach for the gun or try to grab it.

On cross-examination, counsel for Kendrick asked Hendree if it appeared from her perspective that the shooting was an accident. The State objected, arguing that the question called for a conclusion, and the trial court sustained the objection.

Kendrick testified in his own defense. He stated that after Buford went to her bedroom, he took the clip out of his gun, set it on the fireplace, and went into her bedroom, where they continued to argue. Kendrick again said that Buford was grabbing for the gun when it went off. He testified that in saying "I didn't know" after the shot was fired, he meant that he did not realize a bullet was still in the chamber. He stated that he did not intend to fire the weapon. He also admitted that he forgot to clear the chamber when he took out the clip.

The jury found Kendrick guilty of the lesser-included offense of second-degree reckless homicide using a dangerous weapon, and possession of a firearm by a felon. He received sentences totaling 23 years of initial confinement and 15 years of extended supervision.

Kendrick subsequently filed a postconviction motion seeking a new trial. He argued that that it was error to preclude Hendree from giving her opinion as a lay witness when asked whether she thought the shooting was accidental.

The postconviction court rejected that argument. It found that it was not error to preclude Hendree's opinion on the issue because "all of the information which would have supported the witness's lay opinion as to whether the discharge was accidental was already available to the jury" and, therefore, "[t]he witness's opinion that the discharge was accidental would not have been particularly helpful to understanding her testimony or determining whether the discharge was accidental[.]" The postconviction court added there was "little debate" regarding that point, "as the defendant was not charged with an intentional homicide." It further found that even if there was an error, it was "clearly harmless."

Therefore, the postconviction court denied Kendrick's motion without a hearing. This appeal follows.

Kendrick maintains on appeal that the trial court committed error in not allowing Hendree to give her opinion as a lay witness when asked whether she thought the shooting was accidental. "Trial courts have broad discretion to admit or exclude evidence[.]" *State v. James*, 2005 WI App 188, ¶8, 285 Wis. 2d 783, 703 N.W.2d 727. This court will uphold the trial court's ruling on an evidentiary matter if the court "examined the relevant facts, applied a proper legal standard, and reached a reasonable conclusion using a demonstrated rational process." *State v. Mayo*, 2007 WI 78, ¶31, 301 Wis. 2d 642, 734 N.W.2d 115. Put another way, "[t]he question on appeal is not whether this court, ruling initially on the admissibility of the evidence, would have permitted it to come in, but whether the trial court exercised its discretion in accordance with accepted legal standards and in accordance with the facts of record." *State v. Echols*, 2013 WI App 58, ¶14, 348 Wis. 2d 81, 831 N.W.2d 768 (citation omitted).

Pursuant to WIS. STAT. § 907.01,³ a lay witness's testimony may include his or her opinion if it is (1) “[r]ationally based on the perception of the witness”; (2) “[h]elpful to a clear understanding of the witness's testimony or the determination of a fact in issue”; and (3) “[n]ot based on scientific, technical, or other specialized knowledge” so as to be considered expert testimony. However, even if such evidence is relevant, it “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” WIS. STAT. § 904.03.

With his postconviction motion, Kendrick submitted an investigator's report of an interview with Hendree in which she stated she believed the shooting was accidental. Kendrick asserts that had Hendree been allowed to answer at trial, it would have swayed the jury that the shooting was accidental, potentially leading to a verdict of homicide by negligent handling of a dangerous weapon as opposed to second-degree reckless homicide.

We conclude that the trial court did not err in precluding Hendree from answering. As the postconviction court noted, the jury heard other evidence relating to the accidental nature of the shooting. Indeed, Kendrick testified that he had taken the clip out of the gun prior to pointing it at Buford, and admitted he had forgotten to clear the chamber. Furthermore, as the postconviction court pointed out, Kendrick was never charged with intentional homicide in this matter.

³ The 2021-22 version of the Wisconsin Statutes was in effect at the time of the trial; however, we note that the language in the evidentiary statutes referenced is the same in the current version of the statutes.

Thus, Hendree's answer that she believed the shooting was accidental was not necessary to provide a clear understanding of that fact at issue. *See* WIS. STAT. § 907.01. Additionally, it could be considered cumulative in nature. *See* WIS. STAT. § 904.03. As such, the trial court applied proper legal standards in precluding this evidence. *See Echols*, 348 Wis. 2d 81, ¶14. It therefore did not erroneously exercise its discretion. *See id.*

Moreover, the investigative report regarding Hendree's potential testimony did not fully support Kendrick's position that the shooting was due to negligent conduct rather than recklessness. In addition to telling the investigator that she "kn[e]w [the shooting] was accidental," Hendree also stated that Kendrick's conduct was "reckless as hell" because "he should not have been pointing the gun at [Buford's] head in the first place." Therefore, Hendree's full testimony would have been more supportive of the verdict returned of second-degree reckless homicide, rather than homicide by negligent handling of a dangerous weapon. As such, any error by the trial court in excluding Hendree's answer was, in any event, harmless. *See State v. Tulley*, 2001 WI App 236, ¶7, 248 Wis. 2d 505, 635 N.W.2d 807 (discussing that an error will generally be considered harmless if there is "no reasonable possibility" that it contributed to the verdict, and therefore is not "sufficient to undermine confidence in the outcome of the proceeding").

Accordingly, we affirm the judgment of conviction and the order denying Kendrick's postconviction motion.

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

*Samuel A. Christensen
Clerk of Court of Appeals*