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June 2, 2021

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

2020AP777-CR

State of Wisconsin v. Lloyd Oscar Olson
(L. C. No. 2017CF139)

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

Lloyd Olson appeals from a judgment of conviction for battery to a law enforcement officer. Olson argues there was insufficient evidence at trial to prove that he intended to cause bodily harm. Based upon our review of the briefs and record, we conclude at conference that

this case is appropriate for summary disposition, and we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21 (2019-20).¹

Olson was charged with three counts: battery to a law enforcement officer; resisting an officer; and disorderly conduct. Three law enforcement officers testified at trial. After the State rested, Olson moved to dismiss the charge of battery to a law enforcement officer, claiming “there was no evidence produced that I caused the injury and no reasonable jury would find me guilty.” The court denied the motion, and the jury found Olson guilty on all counts. Olson appeals only his conviction of battery to a law enforcement officer.

We uphold a jury’s verdict unless the evidence is so insufficient as a matter of law that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *State v. Poellinger*, 153 Wis.2d 493, 501, 451 N.W.2d 752 (1990). We give great deference to the jury’s determination, and if any possibility exists that the trier of fact could have drawn the appropriate inferences from the evidence adduced at trial, we will not overturn the verdict. *Id.* at 507. If multiple inferences can be drawn from the evidence, we must follow the inferences that support the jury’s finding unless the evidence on which that inference is based is incredible as a matter of law. *Id.*

The only issue on appeal is whether Olson intentionally caused bodily harm to Deputy Frank.² Olson argues that “[u]ltimately, the testimony evidenced that [his] ‘requisite criminal intent’ was to resist the officer, which he was also convicted of. ... However, the testimony did

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

² Consistent with the parties’ practice, we use a pseudonym for the victim, pursuant to WIS. STAT. RULE 809.86.

not show he had the ‘requisite criminal intent’ ‘to cause bodily harm’ to Deputy Frank as required by an element of the crime” Olson contends the State was required to prove that he intended some kind of bodily harm “to someone or to Deputy Frank.” Olson also argues that “although there was testimony that Olson was ‘pulling away’ from Deputy Frank, no one testified that Olson attempted to punch or kick any of the officers.” We are not persuaded by these foregoing arguments.

At trial, Sawyer County Sheriff’s Deputy Frank testified that he was present serving as a bailiff at an in-court hearing involving Olson. Olson was at the defense table, and he was initially calm during the hearing, but his demeanor changed to “disorderly.” The judge stated that Olson would be taken into custody, and Olson then began using vulgarities toward his lawyer. The judge gave Deputy Frank a head nod, whereupon Deputy Frank moved closer to Olson. Olson was wearing “some kind of a jacket,” and “when that jacket lifted up, I observed something metal on his right hip.” Olson believed the metal object to be a needle-nose pliers.

As Olson continued to yell obscenities, Deputy Frank moved in and attempted to gain control of Olson’s left arm. The court verbally ordered Olson be taken into custody, and Deputy Frank attempted to move Olson through the side door of the courtroom because of his disorderly conduct and because he was “worried about the potential weapon” on his hip. Deputy Frank also advised Olson to stop resisting, but Olson refused to comply and instead pulled away from the deputy. Deputy Frank was worried about the pliers on Olson’s hip, and Deputy Frank continued to try to gain control of Olson’s left arm. He eventually got Olson out of the courtroom and into a small hallway that led to a small room. Deputy Frank testified: “Somewhere between that door and the small room, Mr. Olson pulled away from me. At that time, I drew my Taser and advised him he was going to be tased.” The Taser had no effect because Olson “had too many

clothes on” and thus it could not penetrate his clothing. Deputy Frank continued to command Olson to stop resisting and to put his hands behind his back.

Early during this altercation, Deputy Amanda Reed arrived as backup, and she also commanded Olson to stop resisting. Deputy Frank then “rushed in to try and drive stun” Olson, which is to “put the Taser directly on the person to gain compliance.” Although Deputy Frank was able to drive stun Olson, the action did not achieve compliance from Olson, and Olson continued to resist and pull away. With Deputy Reed’s help controlling Olson’s right arm, Deputy Frank ultimately was able to reach in and take the pliers from Olson’s hip.

Deputy Charles Logan then arrived on the scene. Deputies Reed and Logan were able to get control of Olson’s right arm, and Deputy Frank put Olson’s left hand into a compliance hold. The three deputies finally got control of Olson through the use of the compliance hold and physical force. Olson was then handcuffed and taken to jail by several other deputies and jail staff. Deputy Frank went to the hospital where he received medical treatment for a wrist injury that resulted in a loss of work. Deputy Frank testified that his injury was caused “[i]n the altercation with Mr. Olson.”

Deputy Reed also testified at trial, stating that when she arrived to assist, she saw Olson leaning over the defense table yelling at the judge, and Deputy Frank was holding Olson’s left arm. Deputy Reed assisted by grabbing Olson’s right arm and leading him to the hallway. The deputies took Olson to a small room, where Olson broke Deputy Frank’s hold, while refusing their commands to stop resisting and to put his hands behind his back. Eventually, the deputies were able to get Olson onto his knees, but Olson continued to refuse to place his hands behind his back. Olson also continued to use “lots of profanity.” After Deputy Logan arrived, the three

deputies were eventually “able to get [Olson’s] right arm over toward[] his left arm so the handcuffs could be placed on him.” When asked on cross-examination how Deputy Frank’s wrist was injured, Deputy Reed responded, “During our fight, if you want me to assume,” because “[O]lson [was] actively resisting us.” She also testified that Olson’s arms were “flying around,” and that Olson was “pushing them outward as we were trying to push them inward behind [his] back.”

Deputy Logan also testified at trial. He was initially in the courtroom but had been called away to respond to a bicycle accident. When he eventually returned to the courthouse, he heard yelling and was directed to a small room. When he arrived, he saw Deputies Frank and Reed “giving very loud verbal commands to Mr. Olson to turn around, place his hands behind his back, and [Olson] was not complying.” Instead, Olson was yelling obscenities at the deputies and refusing to comply. At some point, Olson began to kneel and face away from the deputies, but he still resisted by not allowing them to bring his hands behind his back. The deputies had to hold Olson down to get him into handcuffs. But even after he was handcuffed, Olson continued to yell and “pull away” from the deputies.

A jury could have reasonably inferred from the evidence adduced at trial that Olson intentionally inflicted bodily harm to Deputy Frank. Olson pulled away from Deputy Frank numerous times, and Olson was physically pushing his arms outward in an attempt to prevent the deputies from placing his arms behind his back. Furthermore, Olson’s arms were “flying around,” and he physically resisted the deputies. Deputy Frank testified that his wrist was injured as a result of his altercation with Olson. Deputy Reed testified that Deputy Frank could have injured his wrist because Olson was “physically resisting us.”

A person need not foresee or intend the specific consequences of his or her act in order to possess the requisite criminal intent. *State v. Guild*, 56 Wis. 2d 808, 813, 202 N.W.2d 903 (1973). Moreover, an accused is presumed to intend the natural and probable consequences of acts voluntarily and knowingly performed. *Id.* Here, the jury was entitled to infer such intent based on the facts of Olson’s repeated gesticulations, resistance, and other conduct.

In addition, the circuit court fully and properly instructed the jury on the elements of battery to a law enforcement officer. *See* WIS JI—CRIMINAL 1240C (1994). The jury instructions—which Olson does not challenge—adequately covered the law as applied to the facts of Olson’s case. The jury instructions informed the jury that intent may be found “from Olson’s acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent and knowledge.” Giving great deference to the jury—as we must—and considering Olson’s “acts, words, and statements,” the jury could have reasonably inferred beyond a reasonable doubt that Olson acted with the mental purpose to cause bodily harm to Deputy Frank.³

Finally, Olson incorrectly argues in his reply brief to this court that a finding of guilt for battery to a law enforcement officer on these facts would make the separate criminal offense of resisting an officer “wholly unnecessary.” Arguments raised for the first time in a reply brief need not be addressed. *Northwest Wholesale Lumber, Inc. v. Anderson*, 191 Wis. 2d 278, 294 n.11, 528 N.W.2d 502 (Ct. App. 1995). In any event, the offenses of resisting or obstructing an

³ We also note that “bodily harm” is defined to include mere “physical pain,” not necessarily “injury, illness, or any impairment of physical condition.” *See* WIS JI—CRIMINAL 1240C (1994).

officer and battery to a law enforcement officer have different elements, and there are many ways an individual could commit one of the two offenses and not the other.

Therefore,

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

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

Sheila T. Reiff
Clerk of Court of Appeals