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DISTRICT I

March 18, 2025

To:

Hon. T. Christopher Dee
Circuit Court Judge
Electronic Notice

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

Christopher D. Sobic
Electronic Notice

Kathleen E. Wood
Electronic Notice

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

2023AP1766-CR State of Wisconsin v. Carl D. Lusk (L.C. # 2015CF87)

Before White, C.J., Donald, P.J., and Geenen, 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).

Carl D. Lusk appeals a judgment convicting him of two counts of robbery of a financial institution as a repeater. Based upon a 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).[1] We summarily affirm.

The State charged Lusk with two counts of robbery of a financial institution as a repeater. According to the criminal complaint, on December 24, 2014, Lusk entered a downtown

[1] All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

Milwaukee Chase Bank, asked a teller, S.O., for a deposit slip, and then wrote: "I need $5000 in fifties and twenties, this is no joke, don't try anything funny!" on the slip. Lusk left the bank with $2,057.

The complaint further states that on December 31, 2014, Lusk entered a downtown Milwaukee Wells Fargo bank and handed a teller, E.J., a note stating: "TRY ME GIVE ME MONEY IN BOTH DRAWERS OR I'LL SHOOT YOU." Lusk left the bank with $3,781.

The matter proceeded to trial where both S.O. and E.J. testified consistent with the facts described in the complaint. The jury found Lusk guilty as charged. The trial court sentenced Lusk to consecutive terms of 72 months of initial confinement and 30 months of extended supervision on each count. This appeal follows.

On appeal, Lusk contends that the evidence was insufficient to support the jury's guilty verdicts. We disagree.

Whether the evidence was sufficient to sustain a guilty verdict is a question of law subject to *de novo* review, ***State v. Smith***, 2012 WI 91, ¶24, 342 Wis. 2d 710, 817 N.W.2d 410, but we may not overturn the verdict "unless the evidence, viewed most favorably to the [S]tate and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt," ***State v. Poellinger***, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). The jury is free to draw reasonable inferences from the evidence, *see* ***Poellinger***, 153 Wis. 2d at 506, but it "may not indulge in inferences wholly unsupported by any evidence," ***State ex rel. Kanieski v. Gagnon***, 54 Wis. 2d 108, 117, 194 N.W.2d 808 (1972).

Here, the jury found Lusk guilty of two counts of robbery of a financial institution, contrary to WIS. STAT. § 943.87. Consistent with the statute, the jury was instructed that one of the elements the State had to prove was that the establishments Lusk was accused of robbing—Chase Bank and Wells Fargo Bank—were "[f]inancial institution[s]." *See* § 943.87. The jury was also instructed that "[f]inancial institution" means "a credit union chartered under the laws of this state, another state or territory, or under the laws of the United States." *See* WIS JI—CRIMINAL 1522.

Lusk focuses on the "financial institution" element and the jury instruction requirement that the institutions must be "chartered." He contends that the evidence was insufficient to prove that Chase Bank and Wells Fargo Bank were chartered institutions because there was no evidence supporting those findings.

In ***State v. Eady***, 2016 WI App 12, 366 Wis. 2d 711, 875 N.W.2d 139, the jury received a similar instruction, ***id.***, ¶6, and we concluded that the State was not required to introduce "the charter itself or testimony from a witness with 'personal knowledge' of the charter," ***id.***, ¶10. We concluded that "circumstantial evidence" may be enough and that "evidence regarding the day-to-day operation of the bank, [a] U.S. Bank deposit slip found in the clothing discarded near the bank, and the numerous signs indicating that the bank was a 'U.S. Bank' insured by the FDIC" were sufficient in that case. ***Id.***, ¶¶10-12.

Here, S.O. testified that she worked for "Chase, JP Morgan Chase." She explained that the bank had a certain protocol in place in the event of a robbery. The jury saw surveillance video from inside the bank, which showed signs identifying the bank as a Chase Bank. The evidence also included photographs from inside the bank showing the teller stations, the Chase

Bank name and corporate logo, and a sign that the bank was insured by the FDIC. The jury also saw the deposit slip that S.O. handed to Lusk on the day of the robbery, showing the bank name and corporate logo.

Similarly, E.J. testified as to her job duties as a teller for Wells Fargo Bank, which included "cash handling" and "[t]aking customer transactions." She also testified as to how Wells Fargo Bank trained her on how to handle a robbery. The evidence further included surveillance footage and still images from the Wells Fargo Bank that showed identifying signs and that the bank was insured by the FDIC.

Therefore, in accordance with our holding in ***Eady***, we agree with the State that there is sufficient circumstantial evidence supporting the jury's findings that Chase Bank and Wells Fargo Bank were financial institutions.

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.

Samuel A. Christensen
Clerk of Court of Appeals