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DISTRICT II

July 9, 2025

To:

Hon. Timothy D. Boyle
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Hector Salim Al-Homsi
Electronic Notice

David J. Susens
Electronic Notice

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

2023AP2073-CR State of Wisconsin v. Rodney L. Bell (L.C. #2021CF1509)

Before Neubauer, Grogan, 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).

Rodney L. Bell appeals from a judgment of conviction entered upon a jury verdict for one count of possession of a firearm by a felon and one count of misdemeanor bail jumping, in violation of WIS. STAT. §§ 941.29(1m)(a) and 946.49(1)(a) (2023-24).[1] He contends that there was insufficient evidence to support his convictions. 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. For the following reasons, we summarily affirm.

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

At Bell's trial, Officer Steven Beal of the City of Racine Police Department testified that he was in his squad car when he received a notification about a suspicious vehicle in the area on the night of September 23, 2021. Beal entered the parking lot where the vehicle was and saw the vehicle, which was operated by a male, come to a stop. He observed another male, later identified as Bell, standing next to the car door. Bell looked at Beal and then ran away. Beal drove forward and saw Bell crouched by another car in the parking lot. They made eye contact, and then Beal observed Bell throw an object and run again. Beal also testified that he heard the sound of a gun hitting the ground after seeing Bell throw the object. When asked how he knew it was a gun that made the sound, he stated that he has heard the sound of his own gun hitting the ground multiple times during his eleven-year tenure as a police officer.

Officer Michael Lodygowski also testified that he saw Bell run and crouch behind a car but could not see if Bell had thrown anything. He further testified that he did not see any other individuals in the area at that time. Lodygowski detained Bell after Bell began to run again. Another officer searched the area and found a holstered gun between the vehicle that Bell had crouched next to and another vehicle. Beal also testified that he observed the gun there, and further stated that he did not locate any other discarded items or objects that Bell could have thrown.

Bell called two witnesses: Khadija McDonald and D'Maya Ruffin. McDonald, the mother of Bell's child, presented an alternative picture of what happened that night. She testified that she owned the gun that the officers found and that she had met with Bell in the parking lot that night. She had shown him the gun because she was getting her concealed carry permit. She ran when she heard the police, assuming someone had called 911, and accidentally dropped her gun while running. She decided to leave in her car without the gun. Ruffin, Bell's girlfriend at

the time, lived in the apartment building adjacent to the parking lot where the incident occurred. She testified that Bell, who was at her apartment just prior to the incident, told her he was going to meet with McDonald. She did not see Bell with a gun when she accompanied him leaving her apartment. She went back inside her apartment building when she saw McDonald approach the building and did not see anything further.

The jury found Bell guilty of one count of felon in possession of a firearm and one count of misdemeanor bail jumping. On the former count, the circuit court ordered Bell to serve two years of initial confinement followed by four years of extended supervision. On the latter count, the court sentenced Bell to 90 days of confinement to be served concurrently.

On appeal, Bell contends that there was insufficient evidence to support his convictions. He argues that the State's circumstantial evidence fails to connect Bell to the firearm and therefore lacks probative value to the degree that the evidence does not reasonably support the jury's verdict. First, he says, there were multiple other people in the area who could have dropped the gun: the driver of the vehicle, one of the individuals near the car from which Bell departed, or McDonald. Second, the sound heard by Beal was not consistent with the sound of a holstered gun hitting the ground. Third, the officers did not search the entire area to see if there were any other objects within Bell's throwing distance. Fourth, the officers could not find any physical evidence including fingerprints or DNA to connect Bell to the gun. The State points out that under ***State v. Poellinger***, 153 Wis. 2d 493, 503, 451 N.W.2d 752 (1990), there is no difference between the test for the sufficiency of circumstantial evidence or direct evidence and maintains that a reasonable jury could have found Bell guilty beyond a reasonable doubt.

This court reviews whether the evidence was sufficient to support a conviction de novo, but we treat a jury verdict with deference. ***State v. Smith***, 2012 WI 91, ¶¶24, 44, 342 Wis. 2d 710, 817 N.W.2d 410. "[I]n reviewing the sufficiency of the evidence to support a conviction," we "may not substitute [our] judgment for that of the [jury] unless the evidence, viewed most favorably to the state 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." ***Poellinger***, 153 Wis. 2d at 507. Therefore, if more than one reasonable inference can be drawn from the evidence, we must adopt the inference that supports the verdict. ***Id.*** at 506-07.

Here, there was sufficient evidence to support Bell's convictions. As the State correctly argues, the test for insufficiency of evidence articulated above is the same regardless of whether the evidence is circumstantial or direct. *See* ***id.*** at 501. In either case, we must uphold the jury's verdict "if there is any reasonable hypothesis that supports it." ***Smith***, 342 Wis. 2d 710, ¶24. Although Bell relies on alternative inferences, he does not satisfy the heavy burden of showing that the inferences actually made by the jury were unreasonable. *See* ***State v. Beamon***, 2013 WI 47, ¶21, 347 Wis. 2d 559, 830 N.W.2d 681.

Given its verdict, the jury obviously inferred that, as argued by the State, Bell possessed—that is, "knowingly had actual physical control of"—the handgun recovered near the car by which he was seen crouching. *See* WIS. STAT. § 941.29(1m)(a); WIS JI—CRIMINAL 1343. Supporting this inference was Beal's testimony that he saw Bell throw an object from a crouching position and heard the object hit the ground, making a sound consistent with a gun hitting the ground, and then observed the gun (but no other potentially discarded objects) in close proximity to where Bell was crouching. Beal's testimony was corroborated by testimony from

other officers, including Lodygowski, who also saw Bell crouching and did not see any other individuals in the area.

The jury rejected the alternative inference Bell advanced at trial through two witnesses with whom he had personal relationships: that the gun belonged to McDonald, who had dropped it in the parking lot after talking with Bell and left in her car without picking it up. It is not for this court to determine which inference is correct, as Bell essentially urges us to do. The trier of fact has the exclusive responsibility for assigning weight to testimony and evaluating witness credibility. *See* ***Smith***, 342 Wis. 2d 710, ¶33. So long as there was credible evidence supporting the inference drawn by the jury—and in this case Bell has not shown that any of the State's evidence was incredible as a matter of law—we are not permitted to unsettle its verdict. *See* ***Poellinger***, 153 Wis. 2d at 506-07.

Therefore,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed, pursuant to 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