

INDEX TO APPENDIX

Amended Judgment of Conviction.....A-101-102

Criminal Complaint.....A-103-107

Trial Transcript,11/8/2016(am) p. 1,51-55.....A-108-113

Trial Transcript, 11/8/16)pm), 1,4-5A-114-116

Court of Appeals Decision 1/9/19.....A-117-125

STATE OF WISCONSIN

CIRCUIT COURT BRANCH 24

MILWAUKEE COUNTY

State of Wisconsin vs. Markiel D Hendricks

Judgment of Conviction

Amended

Sentence to Wisconsin State Prisons and Extended Supervision

Case No. 2016CF001693

FILED

02-23-2017

John Barrett

Clerk of Circuit Court

Date of Birth: 11-15-1994

The defendant was found guilty of the following crime(s):

Ct.	Description	Violation	Plea	Severity	Date(s) Committed	Trial To	Date(s) Convicted
2	[939.05 PTAC, as a Party to a Crime] False Imprisonment	940.30	Guilty	Felony H	04-15-2016		11-09-2016

IT IS ADJUDGED that the defendant is guilty as convicted and sentenced as follows:

Ct.	Sent. Date	Sentence	Length	Agency	Comments
2	01-05-2017	State Prison w/ Ext. Supervision	6 YR		credit for 266 days time served.

Total Bifurcated Sentence Time

Confinement Period					Extended Supervision			Total Length of Sentence		
Ct.	Years	Months	Days	Comments	Years	Months	Days	Years	Months	Days
2	3	0	0		3	0	0	6	0	0

Ct.	Sent. Date	Sentence	Length	Agency	Comments
2	01-05-2017	Restitution			Restitution hearing scheduled for February 20, 2017 at 08:30 am. **02-20-17/Rest. Hearing - Court set amount at \$0.00.
2	01-05-2017	Costs			-Pay all MANDATORY court costs, fees, and surcharges including: DNA surcharge to be paid from prison funds in the amount found appropriate, balance paid during Extended Supervision, failure to pay results in a civil judgment.
2	01-05-2017	Firearms/Weapons Restrict			-No contact with firearms. *Court advised due to felony conviction the defendant is prohibited from firearm possession, and defendant's voting rights are suspended and may not vote until civil rights are restored.

Conditions of Extended Supervision:

Ct.	Condition	Agency/Program	Comments
2	Employment / School		-Obtain/maintain employment. -Obtain GED/HSED.
2	Prohibitions		-No contact with victim T.T or M.E. during initial confinement or extended supervision.
2	Other		-Parenting classes. -Mental health evaluation, take all prescribed medications, comply with any recommended treatment. -Provide DNA Sample.
2	Alcohol assessment		-AODA assessment, comply with recommended treatment. -Absolute sobriety.

Conditions of Sentence or Probation

Obligations: (Total amounts only)

Fine	Court Costs	Attorney Fees	<input type="checkbox"/> Joint and Several Restitution	Other	Mandatory Victim/Wit. Surcharge	5% Rest. Surcharge	DNA Anal. Surcharge
	163.00			13.00	92.00		250.00

A101

WISCONSIN

CIRCUIT COURT BRANCH 24

MILWAUKEE COUNTY

Wisconsin vs. Markiel D Hendricks

Judgment of Conviction

Amended

Sentence to Wisconsin State

Prisons and Extended

Supervision

Case No. 2016CF001693

FILED

02-23-2017

John Barrett

Clerk of Circuit Court

Date of Birth: 11-15-1994

Pursuant to §973.01(3g) and (3m) Wisconsin Statutes, the court determines the following:

The Defendant is is not eligible for the Challenge Incarceration Program.

The Defendant is is not eligible for the Substance Abuse Program.

IT IS ADJUDGED that 266 days sentence credit are due pursuant to §973.155, Wisconsin Statutes

IT IS ORDERED that the Sheriff shall deliver the defendant into the custody of the Department.

If the defendant is in or is sentenced to state prison and is ordered to pay restitution, **IT IS ORDERED** that the defendant authorize the department to collect, from the defendant's wages and from other monies held in the defendant's inmate account, an amount or a percentage which the department determines is reasonable for restitution to victims.

If the defendant is placed on probation or released to extended supervision, **IT IS ORDERED** that the defendant pay supervision fees as determined by the Department of Corrections.

BY THE COURT:

Distribution:

Janet Protasiewicz-24, Judge
Michelle Ackerman Havas, District Attorney
Scott David Anderson, Defense Attorney

Electronically signed by John Barrett
Circuit Court Judge/Clerk/Deputy Clerk

February 23, 2017
Date

2102

CPAU-DV

CIRCUIT COURT
CRIMINAL DIVISION

STATE OF WISCONSIN

MILWAUKEE COUNTY

CRIMINAL COMPLAINT

STATE OF WISCONSIN

DA Case No.: 2016ML009028

Plaintiff,

vs.

Complaining Witness:
DET. MICHAEL CHAPERON

Y Hendricks, Markiel D
1125 North Callahan Place Apt. 210
Milwaukee, WI 53233
DOB: 11/15/1994

Court Case No.: 16CF1093

Perkins, Anthony Eugene
3055 North 48th Street
Milwaukee, WI 53210
DOB: 08/21/1985

Court Case No.:

Defendants,

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

COUNT ONE: KIDNAPPING (CARRIES FORCIBLY) - AS A PARTY TO A CRIME, USE OF A DANGEROUS WEAPON (As to defendants Markiel D Hendricks and Anthony Eugene Perkins)

The above-named defendants on or about Friday, April 15, 2016, at 10036 West Fond du Lac Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, as a party to a crime, by force, did carry Tamyra Thomas from one place to another without her consent and with intent to cause her to be secretly confined, contrary to sec. 940.31(1)(a), 939.50(3)(c), 939.05, 939.63(1)(b) Wis. Stats.

Upon conviction for this offense, a Class C Felony, the defendants may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than forty (40) years, or both.

And further, invoking the provisions of sec. 939.63(1)(b) Wis. Stats., because the defendants committed this offense while possessing a dangerous weapon, the maximum term of imprisonment for the felony may be increased by not more than 5 years.

COUNT TWO: FALSE IMPRISONMENT - AS A PARTY TO A CRIME (As to defendants Markiel D Hendricks and Anthony Eugene Perkins)

The above-named defendants on or about Friday, April 15, 2016, at 2032 N. 35th Street WI, in the City of Milwaukee, Milwaukee County, Wisconsin, as a party to a crime, did intentionally confine Tamyra Thomas, without that person's consent, and with knowledge that they had no lawful authority to do so, contrary to sec. 940.30, 939.50(3)(h), 939.05 Wis. Stats.

Upon conviction for this offense, a Class H Felony, the defendants may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

A103

Markiel D Hendricks, DOB: 11/15/1994
Anthony Eugene Perkins, DOB: 08/21/1985

Page 2 of 5

COUNT THREE: MISDEMEANOR BATTERY, DOMESTIC ABUSE - INFLICTION OF PHYSICAL PAIN OR INJURY (As to defendant Anthony Eugene Perkins)

The above-named defendant on or about Friday, April 15, 2016, at 10036 West Fond du Lac Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did cause bodily harm to Tamyra Thomas, by an act done with intent to cause bodily harm to that person, without that person's consent, contrary to sec. 940.19(1), 939.51(3)(a), 968.075(1)(a)1 Wis. Stats.

Upon conviction for this offense, a Class A Misdemeanor, the defendants may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

And further, invoking the provisions of sec. 968.075(1)(a)1 Wis. Stats., because this charge is an act of domestic abuse, costs upon conviction would include the domestic abuse assessment imposed under sec. 973.055(1) Wis. Stats.

COUNT FOUR: BAIL JUMPING (FELONY) – FOR COMMITTING A NEW CRIMINAL OFFENSE WHILE RELEASED ON BAIL IN MILWAUKEE COUNTY CASE 2016CF00043 (As to defendant Anthony Eugene Perkins)

The above-named defendant on or about Friday, April 15, 2016, at 10036 West Fond du Lac Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, having been charged with a felony and released from custody under Chapter 969 of the Wisconsin Statutes, did intentionally fail to comply with the terms of his bond, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats.

Upon conviction for this offense, a Class H Felony, the defendants may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

COUNT FIVE: BAIL JUMPING (FELONY) – FOR VIOLATING THE NO CONTACT ORDER IN MILWAUKEE COUNTY CASE 2016CF00043 (As to defendant Anthony Eugene Perkins)

The above-named defendant on or about Friday, April 15, 2016, at 10036 West Fond du Lac Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, having been charged with a felony and released from custody under Chapter 969 of the Wisconsin Statutes, did intentionally fail to comply with the terms of his bond, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats.

Upon conviction for this offense, a Class H Felony, the defendants may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

This complaint is supported by the written reports of City of Milwaukee law enforcement officers whose written reports were prepared through the normal course of police business and which your complaining witness has relied upon in the past and found to be truthful and accurate. Based upon a review of the reports pertaining to the investigation of this matter your complaining witness believes that:

At 6:44 AM on April 15, 2016, City of Milwaukee Police Officers Ralph McClain and Martinez Moore were dispatched to the address of 10036 W. Fond Du Lac Avenue, in the City of Milwaukee, County of Milwaukee, for a subject with a gun complaint. A total of five squads responded to secure the scene.

Once the scene was secured, Officer Martinez interviewed Meochia Evans, who provided the following information to Officer Martinez. At approximately 6:30 AM on April 15, 2016, Meochia Evan's daughter, T.W. 6/30/2004 D.O.B., woke Meochia Evans up, telling Meochia Evans that

A107

Markiel D Hendricks, DOB: 11/15/1994
Anthony Eugene Perkins, DOB: 08/21/1985

Page 3 of 5

there was an unknown man inside the house looking for Meochia Evans' sister, Tamyra Thomas.

Meochia Evans immediately feared that it was Anthony Perkins, the ex-boyfriend of Tamyra Thomas. Anthony Perkins was charged in Milwaukee County case 2016CF00043 with interference with child custody for taking Tamyra Thomas' child from her custody. Meochia Evans reported that Anthony Perkins had been sending Tamyra Thomas messages threatening Tamyra Thomas if she testified against Anthony Perkins.

Meochia Evans attempted to call 911. As Meochia Evans exited her bedroom, she observed a subject armed with a small silver handgun. The subject told Meochia Evans, "nobody going nowhere." Meochia Evans yelled to her children to flee the house.

Anthony Perkins then entered the residence. As Anthony Perkins entered the residence, the unknown male subject took Meochia Evans' cell phone. Anthony Perkins and the male subject then proceeded upstairs. Once upstairs, Anthony Perkins forced his way into the bedroom occupied by Tamyra Thomas by breaking the door down. Anthony Perkins then punched Tamyra Thomas repeatedly with a closed fist to Tamyra Thomas's face as the male subject stood by. Fearing for her life, Meochia Evans fled her home. Meochia Evans was told by her children that Anthony Perkins and the unknown subject took Tamyra Thomas away by force.

Officer Violeta Tenhaken responded to the address of 10036W. Fond Du Lac Avenue to assist with the investigation. Upon arriving on scene, Officer Tenhaken interviewed A.E. 12/22/2001 D.O.B., who provided the following statement to Officer Tenhaken. A.E. identified her mother as Meochia Evans. At approximately 6:30 AM on April 15, 2016, A.E. observed an unknown male inside the second floor of her residence. The unknown male had a silver gun. The unknown male walked into Meochia Evans' bedroom holding the gun over the subject's head. Meochia Evans woke up and immediately began to scream. Meochia Evans yelled for A.E. to run outside and call the police. As A.E. fled her residence, Anthony Perkins passed her and entered the residence. As A.E. was outside, A.E. observed Tamyra Thomas being pulled out of the residence by Anthony Perkins. Tamyra Thomas was crying and yelling, "I'm not going to court!"

The unknown male was walking behind Tamyra Thomas, pressing the gun into the back of Tamyra Thomas's head. A.E. saw Anthony Perkins, Tamyra Thomas, and the unknown male enter a car and leave.

City of Milwaukee Police Detective Douglas Williams responded to the address of 10036 W. Fond Du Lac Avenue to assist with the investigation into this matter. Detective Williams interviewed J.W. 6/30/2004 D.O.B., who provided the following statement to Detective Williams.

J.W. is the daughter of Meochia Evans. Around 6:30 AM on April 15, 2016, J.W. was in the kitchen making breakfast when J.W.'s brother, U.J. 11/28/2005 D.O.B., came into the house from outside. An unknown man followed U.J. into the residence. The unknown man claimed to be looking for Tamyra Thomas. Tamyra Thomas immediately ran into the upstairs of the residence and attempted to barricade herself in a bedroom. The unknown male followed Tamyra Thomas up the stairs while pointing a gun.

Shortly thereafter Anthony Perkins entered the residence. J.W. ran outside of the house. A few minutes later, J.W. saw Anthony Perkins dragging Tamyra Thomas out of the residence. Tamyra Thomas was struggling against Anthony Perkins. The unknown male was pointing a gun at Tamyra Thomas' head. J.W. saw Anthony Perkins drag Tamyra Thomas across the street but did not see what happened next.

A105

Markiel D Hendricks, DOB: 11/15/1994
Anthony Eugene Perkins, DOB: 08/21/1985

Page 4 of 5

Detective Williams interviewed U.J. 11/28/2005 D.O.B. next. At approximately 6:30 AM on April 15, 2016, U.J. was outside of his residence waiting for the school bus when an unknown male approached U.J. asking where Tamyra Thomas was. U.J. told the unknown male that Tamyra Thomas was sleeping. The unknown male then entered the residence and U.J. ran to a neighbor's residence to seek help.

At 8:10 PM on April 15, 2016, multiple officers with the City of Milwaukee Police Department located Tamyra Thomas inside the residence located at 2032 N. 35th Street, in the City of Milwaukee, County of Milwaukee. Also located inside the residence were Anthony Perkins and co-defendant Markiel Hendricks. Detective William Savagian responded to the scene and met with Tamyra Thomas.

Tamyra Thomas was visibly shaken and had difficulty talking, but provided the following statement. At approximately 6:30 AM on April 15, 2016, Tamyra Thomas was asleep inside the residence of 10036 W. Fond Du Lac Avenue, when an unknown male, later identified as Markiel Hendricks, woke Tamyra Thomas up. Markiel Hendricks advised Tamyra Thomas that she needed to leave the residence right now. Tamyra Thomas went upstairs and attempted to barricade herself in Meochia Evans' bedroom. Suddenly, the bedroom door was forced in, knocking Tamyra Thomas to the ground. The next thing Tamyra Thomas recalled was Anthony Perkins standing over her, punching her multiple times to the face, causing Tamyra Thomas pain, without her consent. Tamyra Thomas was scared and "so tired" of being hit by Anthony Perkins.

Anthony Perkins then dragged Tamyra Thomas out of the residence by her arms while Markiel Hendricks followed. Anthony Perkins took Tamyra Thomas to a dark van and then struck Tamyra Thomas several more times in the head prior to instructing Tamyra Thomas to get in the van.

Tamyra Thomas recalled traveling all over the city as Anthony Perkins was looking for a place to go. Eventually, Tamyra Thomas was taken to the residence located at 2032 N. 35th Street. While there, Markiel Hendricks discovered that the forceful abduction of Tamyra Thomas made the news. Markiel Hendricks and Anthony Perkins began to panic. Tamyra Thomas could not leave the residence and was fearful for her safety.

Detective Savagian observed the following injuries to Tamyra Thomas: a swollen left eye, bruising to the lips, swollen right hand, a 2 inch laceration to the right side of the neck and a loose tooth. Tamyra Thomas disclosed that Anthony Perkins beat her so bad, "I can't even smile, my teeth hurt so bad. My face will never look the same."

On April 16, 2016, City of Milwaukee Police Detective Ronald Taylor conducted an in custody interview of Markiel Hendricks. According to Markiel Hendricks, on April 14, 2016, Anthony Perkins and Markiel Hendricks went to the Family Dollar Store, where Anthony Perkins purchased duct tape, lighter fluid, and charcoal. Anthony Perkins told Markiel Hendricks that Anthony Perkins was going to restrain Tamyra Thomas and burn her feet for "playing with his money".

At approximately 4:23 AM on April 15, 2016, Anthony Perkins and Markiel Hendricks took the city bus to Tamyra Thomas' residence. Once outside, Anthony Perkins attempted to call Tamyra Thomas to no avail. Approximately two hours later, Markiel Hendricks observed a male child exit the residence. At the direction of Anthony Perkins, Markiel Hendricks asked the child to wake up Tamyra Thomas and let her know Anthony Perkins was outside. The boy went into the

19106

Markiel D Hendricks, DOB: 11/15/1994
Anthony Eugene Perkins, DOB: 08/21/1985

Page 5 of 5

residence and then returned moments later to tell Markiel Hendricks that Tamyra Thomas was still asleep. According to Markiel Hendricks, the child then led Markiel Hendricks into the residence.

Markiel Hendricks attempted to wake Tamyra Thomas up. Upon waking up, Tamyra Thomas grabbed her child and ran upstairs. Anthony Perkins then ran into the residence and followed Tamyra Thomas upstairs. Markiel Hendricks heard a loud noise from upstairs and went upstairs to find a bedroom door broken off the hinges and Anthony Perkins holding Tamyra Thomas, who was bleeding from the mouth. Markiel Hendricks followed Anthony Perkins and Tamyra Thomas outside.

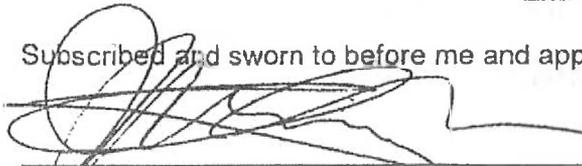
Once outside, Markiel Hendricks called his uncle, who arrived on scene and picked up Anthony Perkins, Markiel Hendricks, and Tamyra Thomas.

On April 16, 2016, City of Milwaukee Police Detective Douglas Williams conducted an in custody interview of Anthony Perkins. During the interview, Anthony Perkins admitted several times that he was guilty of battery and bail jumping. Anthony Perkins denied abducting Tamyra Thomas. Anthony Perkins knew it was wrong to punch Tamyra Thomas, but he gets mad when Tamyra won't talk to him.

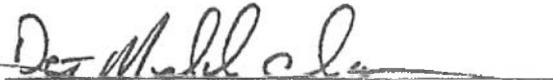
Attached to this criminal complaint and incorporated by reference is the CCAP docket for Milwaukee County case 2016CF00043 wherein Anthony Perkins is charged with interference with child custody, a felony offense under Wisconsin law. The CCAP docket establishes that at the time of the above incident, the defendant was released on bail with a NO CONTACT order between the defendant and Tamyra Thomas.

****End of Complaint****

Subscribed and sworn to before me and approved for filing this 19th day of April, 2016.



Matthew J. Torbenson
Assistant District Attorney
1049925



Complaining Witness

CLERK OF CIRCUIT COURT
16 APR 19 AM 11:26
JUDICIAL DIVISION

A107

STATE OF WISCONSIN: CIRCUIT COURT: MILWAUKEE COUNTY
BRANCH 24

STATE OF WISCONSIN,

Plaintiff,

-vs-

Case No. 2016-CF-1693

MARKIEL D. HENDRICKS,

Defendant.

JURY TRIAL

November 8, 2016 (MORNING)

THE HONORABLE JANET PROTASIEWICZ

Presiding Judge

APPEARANCES:

ATTORNEY MICHELLE ACKERMAN HAVAS appeared on behalf of the State of Wisconsin.

ATTORNEY SCOTT ANDERSON appeared on behalf of the Defendant.

MARKIEL D. HENDRICKS, Defendant, appeared in person.

Risa Kramer, RMR, CRR

COPY

A108

1 to figure out if were you trying to protect somebody.

2 THE WITNESS: Them.

3 THE COURT: Both of them?

4 THE WITNESS: Myself, who, yeah, of course.

5 He know that.

6 THE COURT: All three of you. Is that what
7 you're saying? It sounds like that's what she's
8 saying, counsel, so go ahead.

9 BY MR. ANDERSON:

10 Q Well, you certainly told the detective there in the
11 alley that you barricaded yourself with this dresser in
12 that bedroom and that Mr. Perkins is standing over you
13 punching you in the head with a closed fist. You did
14 tell them that, right?

15 A After they got broke in the door.

16 Q Right. But you're telling -- when you're in the alley,
17 you're telling the detective that, right? You're
18 telling him -- you're telling the detective that
19 Perkins is standing over you punching you in the head,
20 aren't you?

21 A Yes.

22 Q All right. So you're not protecting Mr. Perkins there,
23 are you?

24 You know, Ms. Thomas, I'm not trying to bother
25 you or hurt you. I'm just asking questions about what

1 you told the detectives. So if you take --

2 A I told the detectives what I remembered.

3 Q Don't take it as me trying to hurt you.

4 THE COURT: All right. She said she told the
5 detectives what she remembered.

6 BY MR. ANDERSON:

7 Q Your statement to the detective was that it was
8 Mr. Perkins, Anthony Perkins, that pulled you by your
9 arm out the door; true?

10 A That he was behind me with the gun.

11 Q Well, you told the detective that you didn't observe
12 anyone with a firearm throughout the course of the day.

13 A I told him what they wanted me to tell them. How many
14 times to say that?

15 Q Who wanted you to tell them?

16 A Them.

17 Q Who's them?

18 THE COURT: I think she's told you over and
19 over, the coactors. So let's move on with that.

20 BY MR. ANDERSON:

21 Q When did they tell you that? When did they tell you
22 that?

23 A When they seen what they been charged with on TV. When
24 they seen us all on TV.

25 Q Well, you told the detective --

1 (Interruption in proceedings; ankle monitor
2 beeping.)

3 THE COURT: Hold on. Let her fix her battery.
4 Okay. Go ahead.

5 BY MR. ANDERSON:

6 Q You told the detective, Ms. Thomas, that indeed
7 Mr. Hendricks didn't say or do much of anything during
8 the incident, didn't you?

9 A He was the reason I didn't leave.

10 Q But you told the detective that Mr. Hendricks --

11 A I don't care what I told them. How many times do I say
12 that?

13 Q But you're telling this jury that --

14 A I'm gonna tell you what I just said, though.

15 Q Well, listen to me, listen to me. You're telling this
16 jury that Mr. Hendricks on one hand didn't say or do
17 anything during the incident, and now --

18 (Unintelligible simultaneous crosstalk.)

19 THE WITNESS: -- with a new born --

20 MR. ANDERSON: -- tell you --

21 THE WITNESS: You try waking up every day
22 seeing that.

23 MR. ANDERSON: Telling you --

24 THE WITNESS: Okay.

25 MR. ANDERSON: -- he was trying to save you.

1 THE WITNESS: Okay.

2 MR. ANDERSON: Correct?

3 THE WITNESS: Telling me what? That's why I
4 specifically asked the question. Is he claiming that
5 he woke me up and said, "You got to go"? Or is he
6 saying that to come with him?

7 MR. ANDERSON: That's why --

8 THE WITNESS: I knew he was trying to get to
9 that --

10 MR. ANDERSON: That's what you tell --

11 THE WITNESS: No, it wasn't no "Leave." He
12 shouldn't have came.

13 BY MR. ANDERSON:

14 Q All I'm asking you is about what you --

15 A He shouldn't have came.

16 Q -- told the detectives.

17 THE COURT: I think it's probably
18 challenging -- I don't know if anybody's reviewed with
19 her what she's told the police. That's probably --

20 THE WITNESS: I didn't talk to nobody since
21 then.

22 THE COURT: It's probably very challenging for
23 her, Attorney Anderson, to answer some of these
24 questions.

25 MR. ANDERSON: Well, I object to the Court's

1 interjection.

2 THE COURT: Let me see you both in back.

3 MR. ANDERSON: Isn't that --

4 THE COURT: Let me see you both in back.

5 (Sidebar in chambers.)

6 THE COURT: All right, Attorney Anderson, go
7 ahead.

8 MR. ANDERSON: What was my last question?

9 THE COURT REPORTER: The last completed
10 question was, "You told the detective, Ms. Thomas, that
11 indeed Mr. Hendricks didn't say or do much of anything
12 during the incident, didn't you?"

13 MR. ANDERSON: Was there an answer to that?
14 I'll ask -- if not, I'll ask...

15 THE COURT: Why don't you generally ask her
16 that question again to know what your thought process
17 was.

18 MR. ANDERSON: Okay.

19 BY MR. ANDERSON:

20 Q Ms. Thomas, when you were talking to this detective in
21 the alley, did you tell him that Mr. Hendricks didn't
22 say or do much of anything during this incident?

23 A Yes.

24 Q And you never -- you also told the detective you never
25 observed a firearm throughout the course of the day:

STATE OF WISCONSIN: CIRCUIT COURT; MILWAUKEE COUNTY
BRANCH 24

STATE OF WISCONSIN,

Plaintiff,

-vs-

Case No. 2016-CF-1693

MARKIEL D. HENDRICKS,

Defendant.

JURY TRIAL

November 8, 2016 (AFTERNOON)

THE HONORABLE JANET PROTASIEWICZ

Presiding Judge

APPEARANCES:

ATTORNEY MICHELLE ACKERMAN HAVAS appeared on behalf of the State of Wisconsin.

ATTORNEY SCOTT ANDERSON appeared on behalf of the Defendant.

MARKIEL D. HENDRICKS, Defendant, appeared in person.

COPY

Risa Kramer, RMR, CRR

A114

1 All right. Attorney Havas, how many more
2 witnesses do you have?

3 MS. ACKERMAN HAVAS: I have two this
4 afternoon, Detective Williams and then Detective
5 Savagian. And then we have the issue with Detective
6 Taylor who can't be here until tomorrow morning.

7 THE COURT: All right. And what -- how long
8 do you anticipate these two witnesses are going to
9 take?

10 MS. ACKERMAN HAVAS: I would say not more than
11 an hour total.

12 THE COURT: All right. So this jury will
13 probably be able to be released by 3:00, and then we'll
14 do whatever we have left on our regular calendar.
15 Attorney Anderson, I assume you don't want to call any
16 witnesses out of order.

17 MR. ANDERSON: True.

18 THE COURT: Yeah. All right. Very good.

19 MR. ANDERSON: I just want to make a -- I
20 objected -- I want to make a record on -- trying to
21 remember exactly what -- what you said. But during
22 Thomas' -- Ms. Thomas' testimony, I asked her a
23 question and you made a comment that I objected --

24 THE COURT: I had made a comment about her
25 probably not having the ability to have --

1 MR. ANDERSON: Yes.

2 THE COURT: -- reviewed the police reports
3 before she testified because she was being asked
4 questions about what she told the police. And you
5 objected.

6 MR. ANDERSON: Yes. And I will couple that
7 with a motion for a mistrial based on the Court's
8 comment on the witness's testimony.

9 THE COURT: Well, I'll deny that. And I would
10 ask that you lay a little bit of foundation as to what
11 they know and what they've, you know, told the police.
12 I mean, it was very clear to me she was struggling. I
13 couldn't tell if she was struggling to try to remember
14 what she said. I didn't know what kind of review she
15 had done, if any, of the police reports. If you had
16 asked her that first, I would not have interceded. But
17 it was challenging to watch her struggle and not
18 intervene. So I do take your motion -- thought about
19 your motion and I do deny it.

20 All right. Let's bring the panel up.

21 MS. ACKERMAN HAVAS: Just one second. I think
22 we need to put on the record the sidebar we had with
23 the juror who -- as they were leaving before lunch.

24 THE COURT: All right. Does anybody know what
25 that juror's number was?



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

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Web Site: www.wicourts.gov

DISTRICT I

January 9, 2019

To:

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

2018AP14-CR

State of Wisconsin v. Markiel D. Hendricks (L.C. # 2016CF1693)

Before Kessler, P.J., Brennan and Brash, 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).

Markiel D. Hendricks appeals the judgment, entered on a jury's verdict, convicting him of false imprisonment as a party to the crime. *See* WIS. STAT. §§ 940.30, 939.05 (2015-16).¹ Based on our review of the briefs and record, we conclude at conference that this matter is

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

2118

appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1). We summarily affirm the judgment.

Background

According to the criminal complaint, Hendricks and Anthony Perkins kidnapped and falsely imprisoned Perkins's ex-girlfriend. At the time the crimes occurred, a no-contact order was in effect between Perkins and the victim based on a then-pending charge that Perkins had interfered with the custody of their child.

The complaint alleged that Hendricks and Perkins were friends. Hendricks told police that the day before the crimes occurred, the two went to a store where Perkins bought duct tape, lighter fluid, and charcoal. Hendricks relayed that Perkins told him he was going to restrain the victim and burn her feet for "playing with his money." At approximately 4:30 a.m. the next day, the two men took a bus to the victim's residence where Perkins called her, to no avail.

The victim told the police that around 6:30 a.m., Hendricks entered her home and told her that she needed to leave the residence immediately. The victim ran upstairs and attempted to barricade herself in a bedroom, but the door was forced open. The next thing the victim remembered was Perkins standing over her and punching her multiple times in the face.

The victim said that Perkins dragged her out of her home with Hendricks following. Perkins then put her in a dark van, and they travelled all over the city before the men took her to another home. While there, Hendricks discovered that the victim's abduction was being reported on the news, and the men began to panic.

A 11 5

Police officers eventually discovered where the two were keeping the victim and arrived at that location approximately fourteen hours after she was taken from her home.

The case proceeded to a jury trial. When cross-examining the victim, defense counsel asked her about a statement she gave to a detective on the day of her abduction. The following exchanges took place during defense counsel's cross-examination:

[Defense Counsel:] All right. So you're not protecting Mr. Perkins there, are you?

You know, ... I'm not trying to bother you or hurt you. I'm just asking questions about what you told the detectives. So if you take—

[The victim:] I told the detectives what I remembered.

[Defense Counsel:] Don't take it as me trying to hurt you.

THE COURT: *All right. She said she told the detectives what she remembered.*

....

[Defense Counsel:] Your statement to the detective was that it was Mr. Perkins, Anthony Perkins, that pulled you by your arm out the door; true?

[The victim:] That he was behind me with the gun.

[Defense Counsel:] Well, you told the detective that you didn't observe anyone with a firearm throughout the course of the day.

[The victim:] I told him what they wanted me to tell them. How many times to say that?

[Defense Counsel:] Who wanted you to tell them?

[The victim:] Them.

[Defense Counsel:] Who's them?

THE COURT: *I think she's told you over and over, the co-actors. So let's move on with that.*

....

[Defense Counsel:] When did they tell you that? When did they tell you that?

[The victim:] When they seen what they been charged with on TV. When they seen us all on TV.

....

[Defense Counsel:] You told the detective ... that indeed Mr. Hendricks didn't say or do much of anything during the incident, didn't you?

[The victim:] He was the reason I didn't leave.

[Defense Counsel:] But you told the detective that Mr. Hendricks—

[The victim:] I don't care what I told them. How many times do I say that?

[Defense Counsel:] But you're telling this jury that—

[The victim:] I'm gonna tell you what I just said, though.

[Defense Counsel:] Well, listen to me, listen to me. You're telling this jury that Mr. Hendricks on one hand didn't say or do anything during the incident, and now—

....

[Defense Counsel:] All I'm asking you is about what you—

[The victim:] He shouldn't have came.

[Defense Counsel:] —told the detectives.

THE COURT: *I think it's probably challenging—I don't know if anybody's reviewed with her what she's told the police. That's probably—*

[The victim:] I didn't talk to nobody since then.

THE COURT: *It's probably very challenging for her, [defense counsel], to answer some of these questions.*

[Defense Counsel:] Well, I object to the [c]ourt's interjection.

THE COURT: Let me see you both in back.

(Emphasis added.)

Later in the day, outside of the jury's presence, defense counsel asked to make a record of the sidebar.² He said that he had objected to the trial court's comment, but he did not explain anything that was discussed in chambers. The trial court responded that it had "made a comment about [the victim] probably not having the ability to have ... reviewed the police reports before she testified because she was being asked questions about what she told the police." Defense counsel then moved for a mistrial.

The trial court denied the motion explaining that it commented because "it was very clear to me [the victim] was struggling." The trial court said, "I couldn't tell if she was struggling to try to remember what she said. I didn't know what kind of review she had done, if any, of the police reports." Additionally, the trial court stated that it "would not have interceded" had defense counsel first asked the victim whether she had reviewed the police reports. The trial court added that "it was challenging to watch her struggle and not intervene."

The jury convicted Hendricks of false imprisonment but acquitted him of kidnapping. The trial court sentenced him to three years of initial confinement and three years of extended supervision.

² The sidebar itself was not transcribed.

A121

Discussion

The sole issue on appeal is whether the trial court erred when it denied defense counsel's mistrial motion, which was premised on what Hendricks describes as the trial court's impermissible vouching for the victim and shielding her from relevant cross-examination. Hendricks claims that the trial court's objective bias against him is reflected in three comments it made while defense counsel was cross-examining the victim at trial.

The State argues that Hendricks forfeited his judicial bias claim by not properly objecting to the trial court's comments below. *See State v. Nielsen*, 2001 WI App 192, ¶11, 247 Wis. 2d 466, 634 N.W.2d 325 ("It is axiomatic that to preserve a proposed trial court error for review, trial counsel or the party must object in a timely fashion with specificity to allow the court and counsel to review the objection and correct any potential error."). The State points out that Hendricks did not object to the trial court's two initial comments with which he takes issue on appeal.³ As to the remaining comment by the trial court that it was "probably very challenging" for the victim to answer defense counsel's questions about her statement to the detective, the State argues that Hendricks' objection was insufficient to preserve a judicial bias claim because he never asserted his position with specificity when he made a record of the sidebar. We agree that Hendricks forfeited his right to raise a judicial bias claim on appeal. *See State v. Huebner*, 2000 WI 59, ¶¶10-12, 235 Wis. 2d 486, 611 N.W.2d 727. However, it is within our "discretion to disregard [an] alleged forfeiture and consider the merits of any issue because the rule of

³ The first comment by the trial court was as follows: "All right. She said she told the detectives what she remembered." The second comment by the trial court encouraged defense counsel to move forward with his questioning: "I think she's told you over and over, the co-actors. So let's move on with that."

A 12²

forfeiture is one of judicial administration and not of power.” See *State v. Wilson*, 2017 WI 63, ¶51 n.7, 376 Wis. 2d 92, 896 N.W.2d 682. We decline the State’s invitation to apply the forfeiture rule in this case and instead choose to address the merits.

Every person charged with a crime is entitled to “an impartial and unbiased judge.” *State v. Bell*, 62 Wis. 2d 534, 536, 215 N.W.2d 535 (1974). Whether a judge was unbiased is a question of constitutional fact we review *de novo*. *State v. Neuaone*, 2005 WI App 124, ¶16, 284 Wis. 2d 473, 700 N.W.2d 298. We presume a judge has acted fairly, impartially, and without bias, but the presumption is rebuttable. *State v. Gudgeon*, 2006 WI App 143, ¶20, 295 Wis. 2d 189, 720 N.W.2d 114. The burden is on the party asserting judicial bias to demonstrate that bias by a preponderance of the evidence. *Neuaone*, 284 Wis. 2d 473, ¶16. Either subjective or objective bias “can violate a defendant’s due process right to an impartial judge.” *Gudgeon*, 295 Wis. 2d 189, ¶20.

Hendricks complains only that the trial court was objectively biased. The objective bias test “asks whether a reasonable person could question the judge’s impartiality.” *Id.*, ¶21. It is not sufficient to show only that there is an appearance of partiality or that the circumstances might lead one to speculate that the judge is biased. See *State v. McBride*, 187 Wis. 2d 409, 416, 523 N.W.2d 106 (Ct. App. 1994). Rather, a party must show objective facts that demonstrate actual bias, *see id.*, or that, under all the circumstances, a reasonable person could “conclude[] that the average judge could not be trusted to ‘hold the balance nice, clear[,] and true,’” *Gudgeon*, 295 Wis. 2d 189, ¶24.

“[J]udicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality

challenge,” *Liteky v. United States*, 510 U.S. 540, 555 (1994), and bias is not demonstrated by mere “expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women ... sometimes display,” *id.* at 555-56. “A judge’s ordinary efforts at courtroom administration—even a stern and short-tempered judge’s ordinary efforts at courtroom administration—remain immune.” *Id.* at 556. Rather, the challenged remarks must “reveal such a high degree of favoritism or antagonism as to make fair judgment impossible.” *Id.* at 555.

The circumstances required to show bias are not present here. The trial court’s two initial comments with which Hendricks takes issue involved the trial court telling defense counsel that the victim had already answered the questions he had asked. This was proper and reflects the trial court’s efforts to exercise reasonable control over the presentation of evidence so as to avoid wasting time and to protect the witness from harassment. *See* WIS. STAT. § 906.11(1)(a)-(c).

The trial court’s third comment, that it was “probably very challenging” for the victim to answer defense counsel’s questions about her statement to the detective likewise reflects its effort to exercise reasonable control. Pursuant to WIS. STAT. § 906.11(1)(a), a trial court “shall exercise reasonable control over the mode ... of interrogating witnesses and presenting evidence so as to ... [m]ake the interrogation and presentation effective for the ascertainment of the truth.” This is what occurred here.

Contrary to Hendricks’ assertion, the trial court’s comments were not designed to shield the victim from answering defense counsel’s question. Indeed, after the sidebar, the trial court allowed defense counsel to resume questioning the victim about her statement to detectives. Hendricks has not met his burden of demonstrating judicial bias.

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.

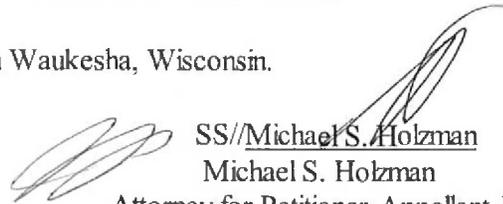
Sheila T. Reiff
Clerk of Court of Appeals

A125

CERTIFICATION

I HEREBY CERTIFY THAT THE PETITION FOR REVIEW IN THE MATTER OF STATE
VS. MARKIEL HENDRICKS, Case No. 2018 AP000014-CR conforms to the rules contained in
Wis. Stats. Sec. 809.19(b)© for a Petition for Review produced with a proportional font and the
length of the Petition is 11 Pages. The Petition contains 3371 Words.

Dated this 21st Day of January 2018 in Waukesha, Wisconsin.

 SS/Michael S. Holzman
Michael S. Holzman
Attorney for Petitioner-Appellant-Defendant

CERTIFICATION

I HEREBY CERTIFY THAT FILED WITH THIS PETITION either as a separate document or filed with this Petition is an Appendix that complies with Wis. Stats. Sec. 809.19(A) and that it contains:

1. A table of contents.
2. Relevant trial entries.
3. The findings and opinions of the trial court.
4. Portions of the record essential to the issues raised including oral and written rulings or decisions showing the trial court's reasoning regarding these issues.

I hereby certify that if the record is required to be confidential, the portions of the record included in this appendix are reproduced using the first names and last initials instead of full names of persons , specifically including juveniles and parents of juveniles with a notation that the portions of the record have been reproduced to preserve confidentiality and with appropriate references to the record.

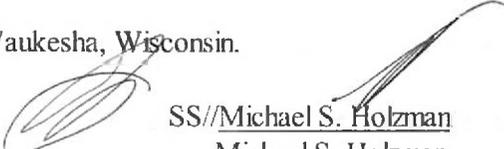
Dated this 21st Day of January, 2018 in Waukesha, Wisconsin.


SS/Michael S. Holzman
Attorney for Petitioner- Defendant-Appellant

CERTIFICATION

I FURTHER CERTIFY THAT THE TEXT OF THE ELECTRONICALLY FILED Petition
in this matter is identical to the text of the paper Petition filed with the Wisconsin Supreme
Court

Dated this 21st Day of January, 2019 in Waukesha, Wisconsin.


SS//Michael S. Holzman
Michael S. Holzman
Attorney for Petitioner-Defendant-Appellant