

No. 96-3453

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

IN THE INTEREST OF EVERETT O.,
A PERSON UNDER THE AGE OF 18:
STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

EVERETT L.O.,

RESPONDENT-APPELLANT.

ERRATA SHEET

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PLEASE TAKE NOTICE that the attached page nine is to be substituted for page nine in the above-captioned opinion which was released on August 7, 1997.

Dated this 5th day of September, 1997.

cross the line into “mere conjecture.” The trial court was not required to adopt Everett L.O.’s proposed instruction verbatim. *See State v. Vick*, 104 Wis.2d 678, 690, 312 N.W.2d 489, 495 (1981) (both choice of language and emphasis are within trial court discretion). However, we conclude that Everett L.O. was entitled to an instruction discussing his right to resist the use of unreasonable force.¹

Although we conclude that the trial court committed error, that does not end our analysis. We will not reverse a judgment for error unless there is a reasonable possibility that the error contributed to the judgment. *See State v. Coleman*, 206 Wis.2d 198, 214-15, 556 N.W.2d 701, 708 (1996). We conclude that there is such a reasonable possibility here. The jury may well have concluded that the State showed that Reinstra acted with lawful authority based on the evidence that he was attempting to arrest Everett L.O., without considering whether the officer’s actions were in accordance with the law. Accordingly, we reverse the adjudication of delinquency based on resisting an officer and remand for proceedings consistent with this opinion.

b. Exclusion of Police Training Standards Manual

Everett L.O. also argues that the trial court erred in excluding an excerpt from the Demonstrate Defensive and Arrest Tactics manual relating to the use of excessive force by law enforcement officers and the “force option

¹ The trial court gave WIS J I—CRIMINAL 1765, Resisting an Officer. The comment to instruction 1765 “suggests specifying the lawful function being performed and, if raised by the evidence, instructing the jury on the applicable legal standard.” WIS J I—CRIMINAL 1765 n.8. When the legality of an arrest is at issue, the comment further suggests instructing the jury that “[a]n officer making an arrest may use only the amount of force reasonably necessary to take the person into custody.” *Id.*