

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 27, 2002

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 99-1727-CR
STATE OF WISCONSIN**

Cir. Ct. No. 98-CF-428

**IN COURT OF APPEALS
DISTRICT II**

**STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JHARVAN BRIDGES,

DEFENDANT-APPELLANT.**

APPEAL from a judgment of the circuit court for Racine County:
DENNIS FLYNN, Judge. *Affirmed.*

Before Nettesheim, P.J., Brown and Snyder, JJ.

¶1 PER CURIAM. Jharvan Bridges appeals from the judgment of conviction entered against him. The issue on appeal is whether there was sufficient evidence produced at trial to support Bridges' conviction for possession of cocaine with the intent to deliver, as a party to a crime. Because we conclude

that there was sufficient circumstantial evidence from which a jury could reasonably have found Bridges guilty, we affirm.

¶2 The underlying incident occurred in May 1998 when the police responded to a call that a possible burglary was occurring at a residence in Racine. When the police arrived, they found two men inside, Bridges and his co-defendant, Gregory Jackson. Both men were arrested. The police also discovered bags of cocaine packaged for sale in a bedroom in the house. When he was arrested, Bridges gave the police officer a false name. Eventually, Jackson pled guilty to the possession with intent charge. Bridges went to trial and was convicted by the jury of burglary and possession of cocaine with intent to deliver as a party to a crime. Bridges appealed and his counsel filed a no merit report. This court identified an issue with potential arguable merit, rejected the no merit, and directed counsel to file a brief. This appeal followed.

¶3 When considering a challenge to the sufficiency of the evidence, this court must affirm “if it finds that the jury, acting reasonably, could have found guilt beyond a reasonable doubt.... [T]he jury verdict will be overturned only if, viewing the evidence most favorably to the state and the conviction, it is inherently or patently incredible, or so lacking in probative value that no jury could have found guilt beyond a reasonable doubt.” *State v. Alles*, 106 Wis. 2d 368, 376-77, 316 N.W.2d 378 (1982) (citation and emphasis omitted). If more than one inference can be drawn, the inference which supports the jury’s verdict must be followed unless the evidence was incredible as a matter of law. *Id.* at 377. “[I]f any possibility exists that the jury *could* have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, we will not overturn the verdict even if we believe that a jury *should* not have found guilt based on the evidence before it.” *Id.*

[A]n appellate court may not substitute its judgment for that of the trier of fact 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. If any possibility exists that the trier of fact could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, an appellate court may not overturn a verdict even if it believes that the trier of fact should not have found guilt based on the evidence before it.

State v. Poellinger, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990) (citations omitted).

¶4 Bridges was convicted of possession with intent to deliver as a party to a crime. There are four elements to possession with the intent to deliver: (1) physical control, (2) of a controlled substance, (3) which the defendant knows is a controlled substance, and (4) that the defendant had the purpose to deliver or was aware that his or her conduct was practically certain to cause delivery. WIS JI—CRIMINAL 6035. A person is a party to a crime when the person:

intentionally aids and abets the commission of a crime when, acting with knowledge or belief that another person is committing or intends to commit a crime, he knowingly either:

- (a) assists the person who commits the crime, or
- (b) is ready and willing to assist and the person who commits the crime knows of the willingness to assist.

WIS JI—CRIMINAL 400.

¶5 Based on the standard of review, we conclude that the jury, viewing the evidence most favorably to the State, could have drawn the appropriate inferences from the evidence to find the requisite guilt. Bridges was convicted of possession with intent to deliver as a party to a crime. While there was no direct

evidence supporting this charge, the circumstantial evidence was such that the jury could have reasonably found him guilty.

¶6 The testimony at trial established that the police went to the residence because they received a report that two men had entered a house which was not theirs. When the police arrived and entered the house, an officer saw Bridges and his co-defendant running. The officer later determined that the area from which they were running was the same general area where the cocaine was found. As the State argues, his flight connects Bridges to the area where the cocaine was discovered and is evidence of his guilty knowledge. Further, when questioned by the police, Bridges gave a false name. This is another indication that he was more than just an innocent bystander.

¶7 At trial, his co-defendant, Jackson, testified that he had been packaging the cocaine and that Bridges was not involved. As the State argued in its closing argument at trial, however, there was not sufficient time between when the men were reported to have entered the house and when the cocaine was found for one person to have packaged the amount of cocaine that was found. Based on the evidence, the jury could have reasonably drawn this inference.

¶8 We conclude that a jury could reasonably have drawn the appropriate inferences from the evidence presented at trial to conclude that Bridges was guilty of possession with intent to deliver as a party to a crime. We therefore affirm the judgment of the circuit court.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

