

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 8, 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. 02-1161-CR
STATE OF WISCONSIN**

Cir. Ct. No. 01-CM-299

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-APPELLANT,

v.

GARY A. ELORANTA,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Pierce County:
ROBERT W. RADCLIFFE, Judge. *Reversed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PETERSON, J.¹ The State appeals an order dismissing a criminal complaint charging Gary Eloranta with knowingly obstructing an officer, contrary

¹ Originally assigned as a one-judge appeal, this case was reassigned to a three-judge panel on September 29, 2002. See WIS. STAT. RULE 809.41(3) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

to WIS. STAT. § 946.41(1). The State argues that the trial court erred by concluding the complaint failed to state probable cause. We agree with the State and reverse the order.

BACKGROUND

¶2 The complaint alleges the following facts. In the early morning of September 14, 2001, Pierce County sheriff's deputy Jean Spletstoser was dispatched to investigate a one-vehicle rollover. There was no driver or passenger at the scene. The owner of the vehicle was John O'Grady.² River Falls fire and ambulance personnel and another law enforcement officer were present at the scene. Eloranta, an EMT, was one of those present. Eloranta was a personal friend of O'Grady's and gave Spletstoser O'Grady's home and office phone numbers.

¶3 Spletstoser attempted over several hours to make contact with O'Grady. At some point, she became aware that Eloranta had located O'Grady and was on the way to pick him up. Another EMT, Lance Ross, was with Eloranta.

¶4 Deputy Chris Loos, who was assisting Spletstoser, called Ross's cell phone number. Eloranta answered the phone and stated that they had found O'Grady but did not know the address. He indicated they were taking O'Grady to his home in St. Croix County, which is outside the deputies' jurisdiction. Loos requested that Eloranta allow Spletstoser to meet with O'Grady at Eloranta's

² John O'Grady is the football coach at the University of Wisconsin–River Falls.

current location. However, Eloranta insisted on taking O’Grady home. When Loos attempted to call back, no one answered the phone.

¶5 Later that morning, Ross called the sheriff’s department and spoke to Spletstoser. Ross stated that he and Eloranta picked up O’Grady at Prescott police chief Jim Schneider’s house. Shortly after Ross’s phone call, Eloranta also called Spletstoser. Eloranta stated that he and Ross had been driving through Prescott when O’Grady waved them down. When Spletstoser informed him that she knew where they picked up O’Grady, Eloranta stated he did not know whose house it was. He also stated that since O’Grady was not injured they decided to take him home.

¶6 Spletstoser later spoke to O’Grady’s wife, Jody, who told Spletstoser that Ross and Eloranta picked her up at her house and they went to find O’Grady. While they were searching, Schneider called her home and left a message with the O’Grady children that O’Grady was at the police chief’s house. The children then called Ross to inform him, Eloranta and Jody where O’Grady was. They then went to Schneider’s home to pick up O’Grady.

¶7 The State charged Eloranta with obstructing an officer, contrary to WIS. STAT. § 946.41(1). Eloranta moved to dismiss the criminal complaint due to lack of probable cause to establish all elements of the crime. A hearing was held on March 7, 2002, and the court granted the motion. The State appeals.

DISCUSSION

¶8 Whether a criminal complaint sets forth sufficient probable cause to justify a criminal charge is a legal determination that we review independently. *State v. Adams*, 152 Wis. 2d 68, 74, 447 N.W.2d 90 (Ct. App. 1989). A criminal

complaint is a self-contained charge that must set forth facts within its four corners that are sufficient, in themselves or together with reasonable inferences to which they give rise, to allow a reasonable person to conclude that a crime was probably committed and the defendant is probably culpable. *State v. Haugen*, 52 Wis. 2d 791, 793, 191 N.W.2d 12 (1971). To be sufficient, a complaint must only be minimally adequate. *State v. Gaudesi*, 112 Wis. 2d 213, 219, 332 N.W.2d 302 (1983). The complaint is to be evaluated in a commonsense, rather than a hypertechnical, manner in setting forth the essential facts establishing probable cause. *Id.*

¶9 The elements of obstructing an officer are: (1) the defendant obstructed an officer; (2) the officer was acting in an official capacity; (3) the officer was acting with lawful authority; and (4) the defendant knew the officer was acting in an official capacity and with lawful authority, and knew his or her conduct would obstruct the officer. *See* WIS JI—CRIMINAL 1766. We conclude that this jury instruction accurately recites the elements of WIS. STAT. § 946.41(1).

¶10 Eloranta argues that the first and fourth elements were not present. He contends he did not obstruct Spletstoser from investigating the accident, nor did he know his conduct would obstruct her. For example, he notes that he gave O’Grady’s phone numbers to Spletstoser at the scene of the accident. He also states that Spletstoser never personally told him to bring O’Grady to the sheriff’s department.

¶11 Wisconsin jury instruction 1766 states that “[t]o obstruct an officer means that the conduct of the defendant prevents or makes more difficult the performance of the officer’s duties.” *Id.* The question then is whether the complaint states probable cause that: (1) Eloranta prevented or made more

difficult Spletstoser's performance of her duties, and (2) Eloranta knew he was doing that.

¶12 There are at least three events showing probable cause that Eloranta was making Spletstoser's investigation of the accident more difficult. First, when Eloranta spoke to Loos on Ross's cell phone, Eloranta stated that he did not know where O'Grady was, when in fact he did know. Second, when Loos requested that Eloranta wait to allow Spletstoser to meet with O'Grady, Eloranta refused and instead insisted on taking O'Grady home, outside the county, and therefore outside the deputies' jurisdiction. Third, when Loos called Ross's cell phone the second time, just minutes after the first call, Eloranta did not answer the phone. Since Eloranta had just spoken to a law enforcement officer who was trying to locate O'Grady, a reasonable inference is that he thought this second call would likely be from a law enforcement officer as well. Finally, it is also reasonable to infer that Eloranta knew his conduct was making Spletstoser's investigation more difficult, particularly because Eloranta was aware that Spletstoser was trying to locate O'Grady.

¶13 We emphasize that the probable cause standard for a criminal complaint is not exacting. It is one of the lowest among several probable cause burdens known in the law. Furthermore, our conclusion about the adequacy of the complaint is no reflection on the merits of the evidence for purposes of a trial.

By the Court.—Order reversed.

Not recommended for publication in the official reports.

