

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 15, 2003

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. 02-2624-CR

Cir. Ct. No. 01-CF-858

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

ARDENIA M. LAWSON,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Brown County:
MARK A. WARPINSKI, Judge. *Reversed.*

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

¶1 PER CURIAM. Ardenia Lawson appeals from a judgment of conviction for fleeing an officer. She argues the evidence was insufficient to sustain the conviction because the State failed to prove: (1) the officer was driving a marked police vehicle, (2) Lawson interfered with the operation of a police vehicle, and (3) she increased the speed of her vehicle in an attempt to elude or

flee. We agree with Lawson's second argument and reverse on that basis. We therefore do not discuss the remaining two arguments.

BACKGROUND

¶2 Lawson and her friend, Jayne Parm, left a tavern together in Lawson's vehicle on September 24, 2001. When Lawson pulled out from an alley onto the street, she crossed the median causing a tire to blow out. She then proceeded the wrong way down a one-way street to an intersection where officer Jeffrey Stone was located. Stone observed Lawson run a red light and turn left onto another street.

¶3 Stone followed Lawson and activated his emergency lights. When Lawson failed to stop, Stone activated his siren. Lawson continued down the street, driving at the posted twenty-five mile-per-hour speed limit. Because Lawson still failed to stop, Stone radioed for assistance.

¶4 When Lawson stopped at a red light, Stone turned off his siren. When the left turn arrow came on, Lawson proceeded straight through the intersection, again driving at the twenty-five mile-per-hour speed limit. Stone again activated his siren and followed her.

¶5 Lawson turned left three blocks later but because of the blown tire drifted into a parking lot. A backup officer pulled into the lot and placed his car in front of Lawson, preventing her from moving forward. Stone placed his car behind Lawson, boxing her in. Lawson shifted into reverse and revved the engine but the car stalled. Stone arrested Lawson and transported her to a hospital for a blood test.

¶6 Lawson was charged with the felony offense of fleeing an officer. A jury found her guilty. Lawson appeals the judgment of conviction.

STANDARD OF REVIEW

¶7 In order to overturn a conviction, we must determine whether the evidence, “viewed most favorably to the State and to the conviction, is so insufficient in probative value and force that it can be said as a matter of law that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990).

ANALYSIS

¶8 Lawson was convicted of felony fleeing an officer. In order to convict Lawson, the jury had to find that Lawson: (1) operated a motor vehicle on a highway after receiving a visual and audible signal from a marked police vehicle, (2) knowingly fled or attempted to elude an officer so as to interfere with the operation of a police vehicle, and (3) increased the speed of her vehicle in an attempt to flee. *See* WIS. STAT. § 346.04(3).¹ On appeal, Lawson argues the State did not satisfy any element of the crime, and therefore the jury’s decision must be overturned. We agree with Lawson’s argument that the State failed to prove she interfered with a police vehicle and therefore address only that argument.

¶9 The word “interfere” is not defined by statute or in the pattern jury instructions. Lawson argues that to interfere means to hinder or impede, and she maintains the officers’ vehicles were neither hindered nor impeded. She argues

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

Stone had no trouble following her and ultimately apprehending her. Lawson correctly recognizes that the State need not prove that she actually interfered, but only that her actions were likely to produce that result. *See State v. Sterzinger*, 2002 WI App 171, ¶21, 256 Wis. 2d 925, 649 N.W.2d 677. Lawson contends, however, that not only did she not actually interfere, but nothing she did was likely to interfere with the officers' operation of their vehicles.

¶10 The State argues a much broader interpretation of interference. First, the State addresses Lawson's argument that to interfere means to hinder or impede. The State argues, in turn, that to hinder or impede means to stop or slow down. The State contends Lawson caused the officers to stop in an effort to box her in to prevent her from fleeing.

¶11 Further, the State argues that whenever a person ignores a visual or audio signal so that the officer must deviate from what the officer would otherwise do, the person has interfered with the operation of the officer's vehicle. Here, Stone had to follow Lawson for at least four blocks and then, along with another officer, box her in to get her to stop. This, the State maintains, is interference with the officers' vehicles.

¶12 The State's interpretation of interference is much too broad. Under the State's definition, anything other than stopping immediately would be considered felony interference. Situations where a suspect does not stop immediately are covered by WIS. STAT. § 346.04(1), which states that: "No person shall fail or refuse to comply with any lawful order, signal or direction of a traffic officer." The penalty for violation of this section is a forfeiture of \$20 to \$40. Accepting the State's definition of interference would turn a mere forfeiture into a felony.

¶13 The record here does not establish that Lawson's actions were likely to interfere with the officers' vehicles. The officers did not have to execute any dangerous or difficult maneuvers to apprehend her.² Lawson did not prevent the officers from following her or ultimately apprehending her. In fact, at all times Lawson drove at the speed limit, allowing Stone to easily stay closely behind her. While Stone did have to follow Lawson for a few blocks before he and another officer stopped her, the officers achieved their intended result, which was to apprehend Lawson.

¶14 We therefore conclude that on these facts, the jury could not have found beyond a reasonable doubt that Lawson's actions were likely to interfere with a police vehicle. Because the State did not prove this element, the conviction cannot stand.

By the Court.—Judgment reversed.

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

² The State also argues that when Lawson ran the red light, Stone had to run the red light to follow her. Therefore, the State maintains Lawson's actions created a risk that Stone's vehicle could be struck by oncoming traffic. However, there is nothing in the record demonstrating that Stone actually did run the red light or whether there was any oncoming traffic at the time Stone crossed the intersection. Consequently, we do not consider this argument.

