

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 23, 2004**

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. 03-1270-CR  
STATE OF WISCONSIN**

Cir. Ct. No. 01CF000521

**IN COURT OF APPEALS  
DISTRICT III**

---

**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**ROBERT JELINEK,**

**DEFENDANT-APPELLANT.**

---

APPEAL from a judgment of the circuit court for Brown County:  
WILLIAM M. ATKINSON, Judge. *Affirmed.*

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

¶1 PER CURIAM. Robert Jelinek appeals a judgment convicting him of first-degree recklessly endangering safety. He argues that the State failed to present sufficient evidence that his conduct was criminally reckless or show an utter disregard for human life. We reject these arguments and affirm the judgment.

¶2 When reviewing the sufficiency of the evidence to support a conviction, this court must view the evidence most favorably to the State and reverse only if the evidence is so insufficient in probative value that no reasonable trier of fact could have found guilt beyond a reasonable doubt. *See State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). To convict Jelinek of first-degree recklessly endangering safety, the State had to prove beyond a reasonable doubt that Jelinek (1) endangered the safety of another human being (2) by criminally reckless conduct (3) under circumstances that showed utter disregard for human life. *See WIS JI—CRIMINAL 1345* (2003). “Criminally reckless conduct,” is conduct that creates an unreasonable and substantial risk of death or great bodily harm. “Great bodily harm” includes “protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm.” *Id.*

¶3 The State presented sufficient evidence of criminally reckless conduct consisting of testimony from the victim, Sandra Sada, and statements she made to the police shortly after the incident. She testified that Jelinek threw her to the floor, struck her, twice choked her into unconsciousness, sprayed and then poured Tilex into her eyes temporarily blinding her, attacked her with a knife and pushed or pulled her down a flight of stairs. Sada testified that her vision was impaired for approximately two weeks while she was receiving medical treatment for her eyes. Both choking her to the point of unconsciousness and spraying and pouring Tilex in her eyes satisfied the requirement of substantial risk of death or great bodily harm.

¶4 The State also presented sufficient evidence to support the jury’s finding that Jelinek’s conduct showed utter disregard for human life. Utter disregard for human life is an objective standard measured on the basis of what a

reasonable person in the defendant's position would have known. *See State v. Jensen*, 2000 WI 84, ¶17, 236 Wis. 2d 521, 613 N.W.2d 170. It does not require the existence of any particular state of mind, but only requires that there be conduct imminently dangerous to human life. *See State v. Blanco*, 125 Wis. 2d 276, 281, 371 N.W.2d 406 (Ct. App. 1985). Twice choking a person to the point of unconsciousness and pushing or pulling her down a flight of stairs after impairing her vision constitute conduct imminently dangerous to human life.

*By the Court.*—Judgment affirmed.

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

