



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688  
Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT II**

April 17, 2024

To:

Hon. Wynne P. Laufenberg  
Circuit Court Judge  
Electronic Notice

Jeffrey W. Jensen  
Electronic Notice

Amy Vanderhoef  
Clerk of Circuit Court  
Racine County Courthouse  
Electronic Notice

Michael C. Sanders  
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

---

2022AP1242-CR      State of Wisconsin v. Dav'ion L. Flores (L.C. #2019CF1010)

Before Gundrum, P.J., Neubauer and Grogan, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Dav'ion L. Flores appeals from a judgment convicting him of two counts of first-degree sexual assault of a child and two counts of child enticement. He contends that there was insufficient evidence to support his convictions. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>1</sup> We affirm.

---

<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

In 2019, a seven-year-old girl with the initials D.H. told her mother that something had happened between her and another person. Seeing D.H. distraught, her mother took her to the police station. D.H. subsequently disclosed to a forensic interviewer that “Dav’ion” had sexually assaulted her multiple times when he lived with her. D.H.’s mother informed police that Dav’ion Flores and his father had briefly lived with her and D.H. in 2016.

The State charged Flores with two counts of first-degree sexual assault of a child and two counts of child enticement for the period between July 1, 2016 and September 30, 2016. The matter proceeded to trial.

At trial, the jury watched the video recording of D.H.’s forensic interview. In it, D.H. recounted two incidents in which “Dav’ion” had taken her into a closet and made her suck his “thing”—which she described as the thing a boy uses to “pee.” D.H. told the forensic interviewer that Dav’ion was living with her at the time.

The jury also heard testimony from D.H. herself. D.H. reiterated that Dav’ion had forced her to suck his “thing” a few times in a closet. She said that she knew Dav’ion because “[he] used to live with us” and was living with her when the incidents occurred. However, she had not seen him since then. When asked if she saw Dav’ion in the courtroom that day, D.H. answered “No.”

Finally, the jury heard testimony from several other witnesses, including D.H.’s mother. D.H.’s mother confirmed that Dav’ion Flores and his father had lived with her and D.H. from July 2016 until September 2016. She identified Flores in court.

Ultimately, the jury found Flores guilty of the charged offenses. The circuit court imposed an aggregate sentence of nine years of initial confinement and eleven years of extended supervision on the sexual assault counts. Meanwhile, it imposed an aggregate sentence of four years of initial confinement and four years of extended supervision on the child enticement counts. It stayed the latter sentence and ordered a consecutive period of probation. This appeal follows.

On appeal, Flores contends that there was insufficient evidence to support his convictions. He focuses on the issue of identity and notes that D.H. did not recognize him as the perpetrator of the crimes. He also points to other evidence suggesting that he was out of state for part of the time period in question.<sup>2</sup>

In reviewing the sufficiency of the evidence to support a conviction, we may not substitute our 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. *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Therefore, if more than one reasonable inference can be drawn from the evidence, we must adopt the inference that supports the verdict. *Id.* at 506-07.

Here, we are satisfied that there was sufficient evidence to support Flores' convictions. Again, the jury heard evidence that someone named "Dav'ion" had forced D.H. to suck his penis multiple times in a closet when he lived with her. It also heard evidence that Dav'ion Flores had

---

<sup>2</sup> One defense witness—Flores' aunt—testified that Flores and his father lived with her in California from March 2016 to the end of August 2016. Even if the jury believed this testimony, it did not provide a complete alibi for Flores, who was accused of committing the crimes through September 30, 2016.

lived with D.H. during the time period in question. From this, the jury could have reasonably concluded that Dav'ion Flores had committed the crimes. Although D.H. may not have recognized Flores at trial, there was a reasonable explanation for this that the jury could have accepted. At the time of the incidents, D.H. was four or five years old and Flores was thirteen years old. At the time of the trial, D.H. was eight years old and Flores was seventeen years old. D.H. had not seen Flores since he lived with her nearly four years earlier. Given this fact, D.H.'s young age, and Flores' likely change in appearance during his teenage years, it is not surprising that D.H. did not recognize him at trial. In any event, D.H.'s inability to recognize Flores does not negate the otherwise sufficient evidence to convict him.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

---

*Samuel A. Christensen*  
*Clerk of Court of Appeals*