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DISTRICT IV

March 3, 2015

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

2013AP1417-CR State of Wisconsin v. Marc G. Craven (L.C. # 2012CF772)

Before Lundsten, Sherman and Kloppenburg, JJ.

Marc Craven appeals a judgment, entered upon a jury's verdict, convicting him of false imprisonment, with a domestic abuse enhancer, and disorderly conduct, both counts as a repeater. Craven argues that the evidence at trial was insufficient to support his false imprisonment conviction. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. We reject Craven's arguments and summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

The State charged Craven with false imprisonment, strangulation and suffocation, misdemeanor battery, and disorderly conduct, the first three counts with a domestic abuse

enhancer and all four counts as a repeater. The charges arose from allegations involving an altercation with T.S. After a trial, the jury found Craven guilty of false imprisonment of T.S. and disorderly conduct, and acquitted him of the other charges. The court ultimately imposed concurrent six-month sentences, to be served consecutively to a sentence Craven was serving in another case.

On appeal, Craven argues that the evidence at trial was insufficient to support his false imprisonment conviction. Whether the evidence supporting a conviction is direct or circumstantial, we utilize the same standard of review regarding its sufficiency. ***State v. Poellinger***, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). We must uphold Craven's conviction "unless the evidence, viewed most favorably to the state and 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." ***Id.*** If there is a possibility that the jury "could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt," we must uphold the verdict even if we believe that the jury "should not have found guilt based on the evidence before it." ***Id.*** at 507. If more than one inference can be drawn from the evidence, this court will follow the inference that supports the jury's finding "unless the evidence on which that inference is based is incredible as a matter of law." ***Id.*** at 506-07.

Here, the circuit court instructed the jury that in order to find Craven guilty of false imprisonment, the State had to prove beyond a reasonable doubt that Craven confined or restrained T.S.; that Craven did so intentionally—that is, with the mental purpose to confine or restrain T.S.; that T.S. was confined or restrained without her consent; that Craven had no lawful authority to confine or restrain T.S.; and that Craven knew T.S. did not consent and knew he

lacked lawful authority to confine or restrain T.S. The jury was further instructed that although the meaning of "confined" or "restrained" required genuine restraint or confinement, it did not need to be in a jail or prison. Thus, if Craven deprived T.S. of freedom of movement, or compelled her to remain where she did not wish to remain, then T.S. was confined or restrained. The court added that physical force was not required and "[o]ne may be confined or restrained by acts or words or both." The jury was also instructed that "[i]ntent and knowledge must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent and knowledge."

At trial, T.S. testified that at the time of the alleged events, she had known Craven for approximately two months and had allowed him to stay in her home a couple of nights per week. On the date in question, T.S. drove Craven to the Occupy Madison site on East Washington Avenue, and when they arrived, Craven took the keys out of the car. The two struggled as T.S. attempted to get her keys back, and Craven hit her and choked her. T.S. testified that she did not try to get out of the car at Occupy Madison. When she stuck her foot out of the car door, Craven yelled to shut the door. T.S. added: "I felt somebody pulling me, but I felt the door slamming against my leg. And then he reached over and pulled the door, I put my foot back in the car and [Craven] closed the door." T.S. confirmed that she did not want to be in the car with Craven because she wanted to go to work and because she wanted to "cut off" ties with Craven, as he had started to show his "aggressive side." T.S. further testified that after the car door closed, Craven "took off going really fast," drove erratically and threatened to drive the car into a building or the lake.

Michael Althafer testified that he was walking his dog through the Occupy Madison site when he observed a confrontation between Craven and T.S. in a vehicle. Althafer observed

Craven pull T.S. into the passenger seat and choke her, as T.S. tried to defend herself. Althafer went for help, and when he returned to the vehicle, Craven was on top of T.S. and Althafer noticed both parties had ripped clothing. According to Althafer, "somebody yelled that there was an assault going on and they said the defendant's name." Althafer added: "We started to approach the vehicle and at that point they drove off. She was trying to get out of the vehicle, he was like physically keeping her in the vehicle. At one time he pulled the door [shut]." When asked to describe how Craven shut the door if T.S. was in the passenger seat, Althafer stated that Craven "[r]eached over and grabbed it and shut it."

Focusing on T.S.'s testimony that she did not try to get out of the car at the Occupy Madison site, Craven argues that T.S. "explicitly disavowed any attempt or desire to leave." T.S. also testified, however, that she did not want to be in the car with Craven and that he yelled at her and pulled the door shut when she put her foot out of the car door. To the extent there was conflicting testimony, it is the jury's function to decide the credibility of witnesses and reconcile any inconsistencies in the testimony. ***Morden v. Continental AG***, 2000 WI 51, ¶39, 235 Wis. 2d 325, 611 N.W.2d 659. Moreover, a jury is free to piece together the bits of testimony it found credible to construct a chronicle of the circumstances surrounding the crime. *See* ***State v. Sarabia***, 118 Wis. 2d 655, 663-64, 348 N.W.2d 527 (1984).

The evidence submitted at trial is sufficient to support the challenged conviction. The jury could conclude beyond a reasonable doubt that Craven intentionally confined or restrained T.S. in the car; that he did so without her consent; and that he knew both that she did not consent and that he did not have lawful authority to restrain or confine her.

To the extent Craven asserts there was no evidence of his intent to confine T.S., state of mind "can only be inferred from assessment of a person's acts and statements in light of the

surrounding circumstances." ***State v. Schlegel***, 141 Wis. 2d 512, 517, 415 N.W.2d 164 (Ct. App. 1987). The jury could reasonably infer from Craven's conduct that he intentionally confined or restrained T.S. in the car. Craven also asserts that the elements of false imprisonment were lacking at various places and times after Craven and T.S. left the Occupy Madison site. Anything that happened following their departure from the Occupy Madison site, however, could not undo the already completed crime.

Upon the foregoing,

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

Diane M. Fremgen
Clerk of Court of Appeals