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**DISTRICT I**

September 4, 2019

*To:*

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

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2018AP107-CR

State of Wisconsin v. Cardell D. Gregory (L.C. # 2014CF4972)

Before Brash, P.J., Brennan and Dugan, 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).**

Cardell D. Gregory appeals a judgment convicting him of attempted first-degree intentional homicide. Gregory argues that there is insufficient evidence to support the jury's

verdict. After review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).<sup>1</sup> We affirm.

When reviewing the sufficiency of the evidence, we look at whether “the evidence, viewed most favorably to the [S]tate 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.” *See State v. Zimmerman*, 2003 WI App 196, ¶24, 266 Wis. 2d 1003, 669 N.W.2d 762 (citation omitted). “If any possibility exists that the trier of fact could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, an appellate court may not overturn [the] verdict.” *Id.* (citation omitted).

Gregory contends that there was insufficient evidence presented to the jury to show that he had the *intent* to kill the victim. A defendant has the intent to kill if he or she has “the mental purpose to take the life of another human being or [is] aware that his [or her] conduct [is] practically certain to cause the death of another human being.” *State v. Webster*, 196 Wis. 2d 308, 321, 538 N.W.2d 810 (Ct. App. 1995) (citation omitted); *see also* WIS. STAT. § 939.23.

The victim, S.H., testified that he had just finished driving his route as a school bus driver and was dropping off the bus key when he saw a car pull into the school parking lot. He heard someone call his name and heard a gunshot. S.H. recognized Gregory as the person who fired the gun because he previously dated Gregory’s mother. S.H. testified that he ran away from the school toward the street because there were children present. He heard additional gunshots as he was running. S.H. testified that Gregory pursued him in his car and then exited the car and

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

chased him on foot, following him over a fence into the back yard of a home. S.H. testified that he realized that he had been shot because one of his legs went numb. He ultimately fell on his back and Gregory repeatedly shot him from five or six feet away while saying, “I’m going to kill you.” S.H. testified that he raised his left arm to his forehead to protect himself and was shot in his left forearm, his right lung, and his abdomen.

A jury may infer that a person intends the natural and probable consequences of acts he or she voluntarily and knowingly performs. *See State v. Dix*, 86 Wis. 2d 474, 482-83, 273 Wis. 2d 250 (1979). S.H.’s testimony, by itself, provided ample evidence to support the jury’s conclusion that Gregory intended to kill S.H. because Gregory repeatedly shot S.H. in a manner that could have killed him. Moreover, bystanders provided testimony corroborating S.H.’s account, including testimony from a woman who identified Gregory as the person who shot S.H. repeatedly in her back yard. There was sufficient evidence to support the conviction.

Gregory argues that the State did not provide the jury with any evidence of motive. The State was not required to establish a motive for the crime; it was required to establish that Gregory had the intent to kill. *See WIS JI–CRIMINAL 1010*. We agree with the State that “while proof of motive may support an intent to kill, proof of motive is not necessary to establish an intent to kill.”

Gregory also argues that his acts were equivocal in nature because he would have fired shots that caused fatal wounds if he intended to kill S.H. We disagree. A reasonable jury could conclude that Gregory’s shots to the abdomen and upper body were either intended to cause fatal wounds or that Gregory was aware that his conduct was practically certain to cause S.H.’s death. Looking at the evidence in the light most favorable to the verdict, as we are required to do, *see*

*Zimmerman*, 266 Wis. 2d 1003, ¶24, there was sufficient evidence to support the jury's conclusion that Gregory was guilty of attempted first-degree intentional homicide.

Upon the foregoing,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*