



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

DISTRICT II

November 4, 2020

To:

Hon. Faye M. Flancher
Circuit Court Judge
Racine County Courthouse
730 Wisconsin Ave.
Racine, WI 53403

Patricia J. Hanson
District Attorney
730 Wisconsin Ave.
Racine, WI 53403

Samuel A. Christensen
Clerk of Circuit Court
Racine County Courthouse
730 Wisconsin Ave.
Racine, WI 53403

Angela Conrad Kachelski
The Kachelski Law Firm S.C.
7101 N. Green Bay Ave., Ste. 6A
Milwaukee, WI 53209

Nicholas DeSantis
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707

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

2019AP1937-CR State of Wisconsin v. Sammie Miller (L.C. #2017CF1237)

Before Reilly, P.J., Gundrum and Davis, 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).

Sammie Miller appeals from a judgment of conviction of the circuit court. Upon reviewing the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1) (2017-18).¹ We affirm.

A jury found Miller guilty of one count of first-degree intentional homicide of his girlfriend, A.S., and one count of felon in possession of a firearm; he was sentenced to life in prison without the possibility of extended supervision. *See* WIS. STAT. §§ 940.01(1)(a), 941.29(1m)(a). The sole issue on appeal is whether sufficient evidence supported the conviction. “A conviction based on a jury’s verdict will be sustained 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.’” *State v. Hanson*, 2012 WI 4, ¶31, 338 Wis. 2d 243, 808 N.W.2d 390 (citing *State v. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990)). Appellate review involves a strict application of this legal standard: we cannot reweigh evidence or judge credibility, and we will not draw inferences contrary to the jury’s unless the underlying evidence supporting those inferences is incredible as a matter of law. *Poellinger*, 153 Wis. 2d at 503-07.

At trial, the jury heard that A.S. went missing in the early morning of July 4, 2017, after having last been seen at a Milwaukee bar. Video footage from the bar showed A.S. and Miller hugging and kissing but later arguing and physically fighting. A.S.’s cousin was with her at the bar and testified that Miller became angry because he thought A.S. was dancing with another man. Miller and A.S. left the bar separately.

¹ All references to the Wisconsin Statutes are to the 2017-18 version.

Larry Brown, a friend of Miller's, testified that Miller called him a number of times in the early hours of July 4 and then drove to his house. Miller beeped at Brown from his truck, a white Yukon. Brown went outside and saw A.S. in the truck, "badly beat." Brown got in the truck and Miller drove to a wooded area in Racine County. Miller pulled A.S. out of the truck by her hair, choked her, and pushed her into the woods. Brown saw Miller hold his arm as if holding a gun; Brown heard a "click" and saw A.S. fall to the ground. When Miller returned, Brown asked him why he had shot A.S. Miller replied that he was afraid of going to prison for violating a no-contact order for A.S. The next day, Brown helped Miller clean blood from the truck. Two months later, Brown led police to the location of A.S.'s remains.

The jury heard other evidence corroborating Brown's account. Another romantic partner of Miller's testified that she had tried to contact Miller during the relevant time period; Miller did not respond, and this was unusual. Photographs showed that A.S.'s remains were found in the clothing she was wearing at the bar. A forensic examination of the remains showed the likely cause of death to be a gunshot wound. Cell phone tracing placed Miller at A.S.'s house in the early morning of July 4 and, later that morning, near Brown's house. Miller's aunt testified that Miller woke her up in the early hours of July 4 to ask to borrow her truck. Miller returned the truck clean, which was surprising to her, since he had never cleaned the truck before. Brown later told Miller's aunt that Miller had killed A.S.; she then noticed that there might be blood on Miller's shoes. Forensic testing of the Yukon revealed traces of human female blood.

On appeal, Miller points to facts that he claims would support a finding of not guilty on the homicide charge (for example, the murder weapon was not recovered). We cannot, however, reweigh the evidence before the jury. See *Poellinger*, 153 Wis. 2d at 504. Miller further highlights various reasons why Brown was not a credible witness, but we likewise cannot reassess witness

credibility. *See id.* Weight and credibility challenges aside, Miller does not explain why the evidence before the jury, taken as a whole, was insufficient to prove the elements of the crime beyond a reasonable doubt. Accordingly, we address this issue no further. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992).

Miller further argues that the evidence was insufficient to support the conviction for felon in possession of a firearm because Brown never testified that he saw Miller with a gun. But as Miller himself acknowledges, guilt may be found from circumstantial evidence. *See State v. Searcy*, 2006 WI App 8, ¶22, 288 Wis. 2d 804, 709 N.W.2d 497. Here, the jury learned that Miller took A.S. into the woods and raised his arm as if holding a gun; Brown heard a “click” and A.S. fell. Forensic examination of A.S.’s remains determined that death was likely caused by a gunshot wound. The jury reasonably found that this was sufficient circumstantial evidence to support the conviction for felon in possession, meaning we cannot and will not disturb that finding. *See Poellinger*, 153 Wis. 2d at 506-07 (“[A]n appellate court must accept and follow the inference drawn by the trier of fact unless the evidence on which that inference is based is incredible as a matter of law.”). We affirm the judgment of conviction.

Therefore,

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.

Sheila T. Reiff
Clerk of Court of Appeals