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DISTRICT I

December 22, 2020

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

2019AP1212-CR	State of Wisconsin v. Martez D. Maclin-Dyson (L.C. # 2015CF5481)
2019AP1213-CR	State of Wisconsin v. Martez D. Maclin-Dyson (L.C. # 2016CF2585)

Before Brash, P.J., Blanchard and Donald, 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).

Martez D. Maclin-Dyson appeals judgments convicting him of four counts of attempted first-degree intentional homicide, with use of a dangerous weapon and as a party to a crime, one count of first-degree recklessly endangering safety, with use of a dangerous weapon and as a party to a crime, and two counts of felony bail jumping. Maclin-Dyson also appeals an order denying

his motion for postconviction relief. Maclin-Dyson argues that charges against him should not have been joined for trial. After review of the briefs and record, we conclude at conference that these appeals are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

Maclin-Dyson was charged with multiple felonies for a drive-by shooting that occurred on December 9, 2015, on interstate I-43 Southbound at the Marquette Interchange in the City of Milwaukee. Subsequently, Maclin-Dyson was charged with numerous felonies for drive-by shootings in the City of Milwaukee that occurred on November 17, 2015, November 18, 2015, and November 28, 2015. The State moved to join the two cases for trial. After a hearing on the motion, the circuit court joined the cases. Maclin-Dyson was convicted after a jury trial.

On appeal, Maclin-Dyson raises only one argument: whether the circuit court erred when it joined the two cases for trial. Two or more criminal cases may be joined together for trial in any of the following situations: (1) if they “are of the same or similar character”; (2) if they “are based on the same act or transaction”; or (3) if they are based on two or more “acts or transactions connected together or constituting parts of a common scheme or plan.” WIS. STAT. § 971.12(1). The purpose of the joinder statute is to promote “trial economy and convenience,” “efficiency in judicial administration,” and “eliminate multiple trials against the same defendant, which promotes fiscal responsibility.” *State v. Salinas*, 2016 WI 44, ¶36, 369 Wis. 2d 9, 879 N.W.2d 609. In determining whether joinder was proper, we broadly construe the joinder statute in favor of

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

joinder. *State v. Locke*, 177 Wis. 2d 590, 596, 502 N.W.2d 891 (Ct. App. 1993). Whether joinder was proper is a question of law that we review *de novo*. *Id.*

Maclin-Dyson argues that the circuit court erred in joining the cases because there was no commonality of motive for the various drive-by shootings and only limited factual similarities, and thus the crimes did not constitute a “common scheme or plan.” *See* WIS. STAT. § 971.12(1). Maclin-Dyson’s reasoning is flawed. The joinder statute provides *three reasons* that charges may be joined. Even if we agreed with Maclin-Dyson that the crimes were not part of a common plan or scheme, the charges were properly joined because they were of the same or similar character. *See id.*

“To be of the ‘same or similar character’ ... crimes must be the same type of offenses occurring over a relatively short period of time and the evidence as to each must overlap.” *State v. Davis*, 2006 WI App 23, ¶13, 289 Wis. 2d 398, 710 N.W.2d 514 (citations omitted). The charges all arose from drive-by shootings in Milwaukee that occurred over a relatively short time frame, November 17, 2015, November 18, 2015, November 28, 2015, and December 9, 2015. The evidence in the four incidents overlapped. The forensic evidence showed and the circuit court found that the same gun was used in all four shootings and testimony showed that the shots were fired from a black Infiniti automobile. The crimes were therefore similar in character and were properly joined for trial. *See* WIS. STAT. § 971.12(1).

IT IS ORDERED that the judgments and order of the circuit court are summarily affirmed.

See 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