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**DISTRICT I**

October 25, 2022

To:

Hon. Janet C. Protasiewicz  
Circuit Court Judge  
Electronic Notice

Angela Conrad Kachelski  
Electronic Notice

George Christenson  
Clerk of Circuit Court  
Milwaukee County Safety Building  
Electronic Notice

Kieran M. O'Day  
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You are hereby notified that the Court has entered the following opinion and order:

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2021AP2167-CR

State of Wisconsin v. Jarmell Jamez Bingham (L.C. # 2019CF448)

Before Donald, P.J., Dugan and White, 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).**

Jarmell Jamez Bingham appeals a judgment convicting him of twelve felonies, including felony murder for the death of Terry Jones. Bingham argues that there was insufficient evidence to support the jury's verdict of guilty on the felony murder charge. After reviewing the briefs and record, we conclude that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21 (2019-20).<sup>1</sup> We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

Whoever causes the death of another human being while committing or attempting to commit certain specified crimes—here, armed robbery as a party to a crime—is guilty of felony murder. *See* WIS. STAT. § 940.03. “[A]n appellate court may not reverse a conviction unless the evidence, viewed most favorably to the [S]tate 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. Poellinger*, 153 Wis. 2d 493, 501, 451 N.W.2d 752 (1990). The standard for reviewing a conviction based on circumstantial evidence is the same as the standard for reviewing a conviction based on direct evidence. *Id.* “[T]he trier of fact is the sole arbiter of the credibility of the witnesses and alone is charged with the duty of weighing the evidence.” *State v. Below*, 2011 WI App 64, ¶4, 333 Wis. 2d 690, 799 N.W.2d 95. “When more than one inference can reasonably be drawn from the evidence, the inference which supports the trier of fact’s verdict must be the one followed on review unless the evidence is incredible as a matter of law.” *Id.*

The State’s primary witness, Kwame Sallis, testified that he was driving Jones’s car on the night that Jones was killed, and that Bingham and Jones were his passengers. Sallis testified he pulled over into an alley because Bingham said that he needed to go to the bathroom. Sallis testified that after they all got out of the car, Bingham pointed a gun at him, and then at Jones, demanding the keys to Jones’s car. Sallis testified that Jones refused to give Bingham the keys, so Bingham shot Jones in the leg. Sallis testified that he ran from the scene but heard five or six additional shots as he was running away. Police Officer Yang Lee testified that he responded to a report that shots had been fired and discovered Jones’s body in the alley with multiple gunshot wounds. Based on Sallis’s and Lee’s testimony, there was sufficient proof to support the verdict

because a reasonable jury could conclude that Bingham shot and killed Jones while committing armed robbery.

Bingham contends there was no physical evidence linking him to the crimes. While it is accurate that there was no direct physical evidence, such as DNA or fingerprints, Sallis's testimony linked Bingham to the crime. The law does not require that a conviction be supported by physical evidence; in fact, mere circumstantial evidence is sufficient to support a conviction. See *Poellinger*, 153 Wis. 2d at 501. Bingham also argues that Sallis was not a credible witness. As we previously explained, the jury "is the sole arbiter of the credibility of witnesses." *Below*, 333 Wis. 2d 690, ¶4. The jury heard Sallis's testimony and Bingham's testimony, which directly contradicted Sallis's testimony. Bingham testified that he did not have a gun and he did not kill Jones. He further testified that Sallis and Jones dropped him off at the home of his grandparents before Jones was killed. Ultimately, it was up to the jury to decide what to believe of Sallis's testimony in light of the varying accounts of what occurred. Bingham's argument that Sallis's testimony was not credible is not grounds for appellate relief.

Upon the foregoing,

IT IS ORDERED that the order 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*