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DISTRICT 4

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OF WISCONSIN**

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Case No. 2018AP001953-CR  
Circuit Court Case No. 2017CM000184

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STATE OF WISCONSIN,  
Plaintiff-Respondent,

v.

MELODIE C. TAYLOR,  
Defendant-Appellant.

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ON APPEAL FROM A FINAL ORDER ENTERED ON DECEMBER 11, 2017,  
IN THE CIRCUIT COURT FOR GRANT COUNTY,  
THE HONORABLE CRAIG R. DAY, PRESIDING

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BRIEF OF THE PLAINTIFF-RESPONDENT

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### **STATEMENT ON ORAL ARGUMENT**

The State does not request oral argument.

### **STATEMENT ON PUBLICATION**

The State does not request publication.

### **STATEMENT OF THE FACTS**

On June 24, 2017, Melodie Taylor was arrested by Platteville Police for disorderly conduct (R. 42:19). That same day, she signed a Bail/Bond releasing her on the posting of \$150 with certain conditions, one of which was that she shall not consume alcohol or drugs. (R.1). The Bail/Bond listed the next court date as 7/24/17. (R.1).

At trial, Ms. Taylor asserted that "a couple of days later" she called police to see what she was being charged with and was told that if she did not receive anything within a couple days, then she could assume she wasn't being charged. (R.42:41). Officer Lee testified that she told Ms. Taylor that her initial appearance for the DC charge would be 7/24/17. (R.42:42-43).

On July 9, 2017, Platteville Police again had contact with Melodie Taylor. (R.42:22). Ms. Taylor showed signs of impairment and admitted to law enforcement that she had been drinking alcohol. (R.42:41)

The State charged Ms. Taylor with misdemeanor bail jumping on July 12, 2017 asserting that she had violated the terms of the June 24, 2017 bond by consuming alcohol. (R.2:1-2). A motion to dismiss was filed and subsequently denied. (R.1; R.9). The case proceeded and ultimately was presented to a jury on December 8, 2017, where Ms. Taylor was found guilty. (R.42: 1-65).

#### **ARGUMENT**

BAIL JUMPING MAY BE CHARGED UNDER SEC. 946.49, WIS. STATS., WHEN A PERSON IS EITHER ARRESTED FOR OR CHARGED WITH A CRIME.

#### **STANDARD OF REVIEW**

The interpretation of a statute is subject to de novo review on appeal. *State v. Reed*, 2005 WI 53, ¶13, 280 Wis.2d 68, 695 N.W.2d 315.

#### **LEGAL ARGUMENT**

In *State vs. Reed*, 2005 WI 53, ¶ 13, 280 Wis.2d 68, 695 N.W.2d 315, the court stated:

The purpose of statutory interpretation is to determine what a statute means so that it may be given its full, proper, and intended effect. (State ex rel. *Kalal v. Circuit Court for Dane County*) 2004 WI 58, ¶ 44, 271 Wis.2d 633, 681 N.W.2d 110.

Jury instructions represent a painstaking effort to accurately state the law and to provide uniformity. *State v. Foster*, 191 Wis.2d 14, 27, 528 N.W.2d 22 (1995). It is

recommended that trial courts use the standard instruction.  
*Id.*

The bail jumping instruction is numbered 1795 and sets forth three elements:

- (1) The defendant was (arrested for) (charged with)  
(a felony) (a misdemeanor);
- (2) The defendant was released from custody on bond;  
and
- (3) The defendant intentionally failed to comply with  
the terms of the bond. (R.13:5-6).

It is appropriate for a trial court to modify instructions when necessary to fully and fairly state the law. *Foster*, 191 Wis.2d at 27; See also *McMahon v. Brown*, 125 Wis.2d 351, 354, 371 N.W.2d 414, 416 (Ct.App.1985).

The trial court did slightly modify the bail jumping instruction and instructed the jury as follows:

Bail jumping as defined as in the criminal code of Wisconsin is committed by one who has been released from custody on bond and intentionally fails to comply with the terms of that bond.

Before you may find Ms. Taylor guilty of this offense, the State must prove by evidence that satisfies you beyond a reasonable doubt that the following three elements were present: One, that Ms. Taylor was arrested for a misdemeanor. Disorderly conduct is a misdemeanor. You shall not concern yourself with the validity of the arrest on the original disorderly conduct charge.

Two, that Ms. Taylor was released from custody on bond. This requires that after arrest, Ms. Taylor was released from custody on bond under conditions.

Three, that Ms. Taylor intentionally failed to comply with the terms of the bond. This requires that Ms. Taylor had the purpose to consume alcohol, knew of the terms of the bond, and knew that her actions did not comply with those terms.

. . . (R.42: 52-53).

The jury instruction is clear in the first element, that a violation occurs one of two ways; either the defendant is "arrested for" or "charged with" a particular crime. Both Ms. Taylor and the State allege that Ms. Taylor had been arrested for a crime. Ms. Taylor and the State agree that using the "charged with" language would not be proper because she was not "charged with" a crime. But that is not required.

The undisputed facts are that Ms. Taylor was arrested for the crime of disorderly conduct, a misdemeanor. That satisfies the first element of the crime of bail jumping and answers the ultimate question on appeal.

#### **CONCLUSION**

The Jury Instruction Committee is persuasive in outlining the elements of criminal offenses. The plain language used by the Committee makes it clear that being "arrested for" a crime satisfies the contested element on appeal. Ms. Taylor wishes this court to not acknowledge

the "arrested for" language found in the jury instruction. The State contends that is inappropriate and requests the Court of Appeals to affirm the trial court's denial of the motion to dismiss.

Dated this 17th day of January, 2019.

Respectfully submitted,

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**FORM AND LENGTH CERTIFICATION**

I hereby certify that this brief conforms to the rules contained in § (Rule) 809.19(8)(b) and (c) for a brief produced with a monospaced font. The length of the brief is 5 pages.

Dated this 17th day of January, 2019.

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Grant County, Wisconsin



## **APPENDIX CERTIFICATION**

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with the content requirements of Wis. Stat. (Rule) 809.19(2)(a); that is, the record documents contained in the respondent's appendix fall into one of the categories specified in sub. (2)(a).

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names and last initials instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 17th day of January, 2019.

Signed:

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**CERTIFICATE OF COMPLIANCE  
WITH WIS STAT. §(RULE) 809.19(12)**

I hereby certify that the text of the electronic copy of the brief filed pursuant to Wis. Stat. § 809.19(12), is identical to the text of the paper copy of the brief.

Dated this 17th day of January, 2019.

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**SUPPLEMENTAL APPENDIX CERTIFICATION**

I hereby certify that a supplemental appendix is filed with this brief and that it complies with the content requirements of Wis. Stat. § 809.19(2)(a).

Dated this 17<sup>th</sup> day of January, 2019.

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