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STATE OF WISCONSIN
C O U R T O F A P P E A L S
DISTRICT III

Case No. 2022AP000730

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

RYAN D. WILKIE,

Defendant-Appellant.

APPEAL FROM JUDGMENT OF CONVICTION IN
EAU CLAIRE COUNTY CIRCUIT COURT
THE HONORABLE SARAH HARLESS, PRESIDING

BRIEF OF PLAINTIFF-RESPONDENT

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STATEMENT OF THE ISSUES

1. Did the Fourth Amendment prohibit warrantless entry into Wilkie's home such that the police were not acting with lawful authority when they tried to enter?

The circuit court concluded no: law enforcement was permitted warrantless entry into Wilkie's residence under emergency aid or exigent circumstances.

This Court should conclude the same.

2. Was there sufficient evidence at trial to support a jury finding Wilkie guilty of Obstructing an Officer beyond a reasonable doubt?

The circuit concluded that there was sufficient evidence to support the jury finding Wilkie guilty when it denied Wilkie's motion for directed verdict.

This Court should conclude the same.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

The State does not request oral argument or publication. The issue is neither novel nor factually complicated.

SUPPLEMENTAL STATEMENT OF THE CASE

The State charged Wilkie with one count of obstructing an officer and one count of disorderly conduct after police responded to his residence after a neighbor called 911. The neighbor reported that he heard yelling and fighting next door, including a female voice yelling "stop" and "no," as well as banging. (R. 56: 20-26).

Officers were dispatched to the residence in response to the call and being advised that there was a possible domestic altercation occurring at the residence. (R. 73: 22-23). Officers made contact with the residence and Wilkie answered the

door. Officers spoke with Wilkie, who told officers that they were not going into the residence and that he would not allow others in the residence to come out and speak with officers. (R.73: 26-45). Officers told Wilkie that they needed to talk to those inside to ensure that no one was hurt and explained to him why they believed someone inside may be hurt. (R. 73: 46-62). Wilkie again told the officers that they were not going to do that and attempted to go back inside when he was told he was being detained. (R. 73: 78-98). Wilkie continued to prevent officers from entering the residence and was then arrested. (R. 73:102-107).

After being arrested, Wilkie began yelling at police and continued yelling at police while being taken to the squad car down the street from the residence. (R. 73: 158-177).

STANDARD OF REVIEW

“The sufficiency of a complaint is a matter of law and is addressed de novo by the reviewing court” *State v. Adams*, 152 Wis. 2d 68, 73, 74, 447 N.W.2d 90 (Ct. App. 1989).

A challenge to the complaint has not been rendered moot or immaterial, and it is appropriate to contest the sufficiency of the complaint on postconviction review by an appellate court if the issue has been preserved for appeal.” *Id.* at 73. “A criminal complaint is a self-contained charge that must set forth facts within its four corners that are sufficient, in themselves or together with reasonable inferences to which they give rise, to allow a reasonable person to conclude that a crime was probably committed and the defendant is probably culpable.

Id.

The community caretaker doctrine cannot be used as a standalone justification to entry a home without a warrant. *Caniglia v. Strom*, 141 S.Ct. 1596 (2021). The Emergency Aid

Exception to the warrant requirement permits a government official from entering home “when the official reasonably believes that a person is in need of immediate aid or assistance.

This emergency exception is based upon the idea that ‘the preservation of human life is paramount to the right of privacy protected by the fourth amendment.’” *State v. Rome*, 2000 WI App 243, ¶12, 239 Wis. 2d 491, 620 N.W.2d 225 (citing *State v. Boggess*, 115 Wis.2d 443, 450, 340 N.W.2d 516 (1983)). “[T]he search is invalid unless the searching officer is actually motivated by a perceived need to render aid or assistance. Second, ... until it can be found that a reasonable person under the circumstances would have thought an emergency existed, the search is invalid.” *State v. Prober*, 98 Wis.2d 345, 365, 297 N.W.2d 1 (1980). It is the state’s burden to prove exigent circumstances. *State v. Reed*, 2018 WI 109, ¶79, 384 Wis. 2d 469, 920 N.W.2d 56.

The Wisconsin Court of Appeals has also reaffirmed that the emergency aid exception applies even if the entry was originally examined under the community caretaker doctrine. *State v. Ware*, 2021 WI App 83, 400 Wis. 2d 118, 968 N.W.2d 752.

Petitioner also states that there was insufficient evidence presented at trial to support a conviction for Obstructing an Officer. The element requires that Wilkie have actual knowledge that officers were acting with lawful authority. *State v. Lossman*, 118 Wis. 2d 526, 348 N.W. 2d 159 (1984) and Wis. Stat. § 946.41(1).

“[T]he jury verdict will be overturned only if, viewing the evidence most favorably to the state and the conviction, it is inherently or patently incredible, or so lacking in probative value, that no jury could have found guilt beyond a reasonable doubt.” *State v. Lossman*, 118W Wis.2d 526, 543 (citing *State v. Alles*, 106 Wis.2d 368, 376–77, 316 N.W.2d 378 (1982),

citing to *Fells v. State*, 65 Wis.2d 525, 529, 223 N.W.2d 507 (1974)).

ARGUMENT

I. The circuit court properly denied the Motion for Reconsideration because the Emergency Aid Doctrine permitted warrantless entry into the residence.

This case is easily distinguishable from *Caniglia v. Strom*. 141 S.Ct. 1596 (2021). In *Strom*, law enforcement convinced Strom to go willingly with them to a hospital for a psychiatric evaluation. *Id.* After Strom had left, law enforcement entered the residence without a warrant and removed firearms in the residence. *Id.* There were no facts to support law enforcement entering the residence under exigent circumstances; indeed, Strom had already been removed from the scene and could not pose a danger. *Id.* at 1598

The criminal complaint contained ample facts to support the emergency aid exception. The criminal complaint states:

Officer Meincke reports that on December 11, 2019, officers were dispatched to a reported domestic incident at 1722 Rist Avenue in the City and County of Eau Claire, Wisconsin. He further reports that a caller had reported that a male and female were screaming at each other inside the residence. The caller further reported hearing loud banging noises, which he believed to be from a physical altercation between the male and female subjects, and heard the female repeatedly screaming, “Stop” and “no.”

(R. 2-1). There was no evidentiary hearing requested by defense and no testimony was taken. Based solely on the criminal complaint, the circuit court concluded that “it was

reasonable for officers to enter into the home in an effort to ascertain if an individual in there was injured.” (R.36-6). At the hearing to address the motion to reconsider, the circuit again reviewed the criminal complaint and determined that

[I]n this case police officers were responding to a 911 call where the caller indicated that a female was screaming “no” and “stop” and believed the female was being attacked and harmed. Police arrived at the house shortly afterwards to investigate that and attempted entry into the home to investigate that. So, again, this is the type of situation that exigent circumstances does cover. This is not the type of situation where would expect police to get a warrant before investigating if somebody is currently being harmed inside a home.

(R. 70: 3-4). Officer Meincke, during his direct examination, testified that he was advised “by the communication center that the caller reported hearing some loud banging noises and yelling and screaming from the residence and had heard a female voice yelling “no” and “stop.” (R. 73: 86-87) Officer Meincke, when asked if he had any concerns, stated “I was concerned that there had possibly been some sort of altercation inside and somebody may be injured or in need of medical attention.” (R. 73: 87). Additionally, when asked why they detained Wilkie, Officer Meincke testified that:

When we contacted him, we were concerned about who was still inside the residence and their welfare. We didn't know what their status was, and he was refusing to allow us in to check on their welfare. We initially asked about bringing them out to the door or outside so we could at least verify they're okay. He had stated yes at first, and then later changed his mind and said,

No, that's not going to happen. So we were not able to verify anybody's welfare, and that's why he was detained.

(R. 73: 90). Officer Meincke went on to explain why he was worried about the safety of those inside stating it was “[b]ased on the initial call and what . . . had been reported to us in addition to his agitated behavior when we arrived.” *Id.* Officer Meincke also testified that Wilkie’s refusal to let the occupants come outside was a concern as well. *Id.*

During the motion hearing to dismiss the complaint, the circuit court noted that the “primary focus in entering the home would be to ensure the safety of the occupants.” (R.36:6; App. 13). When coming to that decision, the circuit court noted the criminal complaint included references that “officers responded to a report of loud noises, things banging, a person screaming ‘no’” *Id.*

When coming to this decision the court looked at the totality of the circumstances and determined that “it was reasonable for officers to enter into the home in an effort to ascertain if an individual in there was injured.” *Id.* The circuit court acknowledged that police had reason to believe someone inside the residence was injured.

Officers had additional cause for concern upon making contact with the residence, as there was yelling heard coming from the residence. (R.55: 7) Wilkie did initially offer to have his daughter come to the door, but then rescinded that offer. (R.29-45).

II. There was sufficient evidence of a jury to find Wilkie guilty of Obstructing an Officer.

There was sufficient evidence for the jury to convict Wilkie of obstructing an officer. The jury heard and saw that police were in uniform, that they arrived in a marked police vehicle, that they introduced themselves as police, and that the police explained the reason why they were going to enter

the residence. The jury was able to hear and observe the entire interaction that Wilkie had with law enforcement via body worn microphones and squad video. The jury also heard police tell Wilkie that he was being detained and that he was not free to go and, moments later, that he was under arrest.

The jury could have found that Wilkie recognized that law enforcement were acting in their lawful authority and that Wilkie was merely being confrontational despite that. Wilkie's conduct after being arrested, in which he makes numerous comments that would indicate a disdain of police lends credence to jury's decision. (R. 55: 106-194).

CONCLUSION

For the above stated reasons, this Court should affirm.

Dated this 31st day of March, 2023.

Respectfully submitted,

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CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief is 1,677 words.

Dated this 31st day of March, 2023.

Electronically signed by

Andrew Gunderson

ANDREW J. GUNDERSON

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

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of Wis. Stat. § 809.19(12).

I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated this 31st day of March, 2023.

Electronically signed by

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