

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 4, 2001

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 01-2184
STATE OF WISCONSIN**

Cir. Ct. No. 01-TR-1650

**IN COURT OF APPEALS
DISTRICT III**

CITY OF STURGEON BAY,

PLAINTIFF-RESPONDENT,

V.

ANN M. THENELL,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Door County:
D. T. EHLERS, Judge. *Affirmed.*

¶1 HOOVER, P.J.¹ Ann Thenell appeals a judgment convicting her of failing to stop at a stop sign, contrary to WIS. STAT. § 346.46(1). The basic tenor of her principal argument is that the trial court erred when it found the arresting

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

officer's testimony more credible than Thenell's. Because the trial court's determination of credibility is binding on this court and Thenell has not shown that its findings of fact were clearly erroneous, the judgment is affirmed.

BACKGROUND

¶2 Thenell was cited for failure to stop at a stop sign.² She pled not guilty and the matter was tried to the court. Both the arresting officer, Carl Waterstreet, and Thenell testified. After hearing closing arguments, the trial court specifically found Waterstreet's version of events to be more credible. The court indicated that Thenell's version was confusingly inconsistent. Reflecting Waterstreet's testimony, the trial court found that Thenell paused her vehicle twenty feet before the stop sign and then proceeded through the intersection. The court referred to a photo exhibit and WIS. STAT. § 346.46(2),³ and determined that

² WISCONSIN STAT. § 346.46(1) provides:

Except when directed to proceed by a traffic officer or traffic control signal, every operator of a vehicle approaching an official stop sign at an intersection shall cause such vehicle to stop before entering the intersection and shall yield the right-of-way to other vehicles which have entered or are approaching the intersection upon a highway which is not controlled by an official stop sign or traffic signal.

³ WISCONSIN STAT. § 346.46(2) provides:

Stops required by sub. (1) shall be made in the following manner:

(a) If there is a clearly marked stop line, the operator shall stop the vehicle immediately before crossing such line.

(b) If there is no clearly marked stop line, the operator shall stop the vehicle immediately before entering the crosswalk on the near side of the intersection.

(continued)

subpara. (2)(c) applied. From this the trial court concluded that pausing twenty feet before the stop sign did not comport with the requirements of WIS. STAT. § 346.46(1). Upon this conclusion, the trial court found Thenell guilty. She appeals.

STANDARD OF REVIEW

¶3 The dispositive issue is whether the record supports the trial court's finding that Thenell stopped twenty feet before the stop sign in question.⁴ This issue presents a question of fact that is reviewed under the clearly erroneous standard. WIS. STAT. § 805.17(2). Moreover, this court searches the record for evidence to support the findings the trial court made, not for findings the trial

(c) If there is neither a clearly marked stop line nor a marked or unmarked crosswalk at the intersection or if the operator cannot efficiently observe traffic on the intersecting roadway from the stop made at the stop line or crosswalk, the operator shall, before entering the intersection, stop the vehicle at such point as will enable the operator to efficiently observe the traffic on the intersecting roadway.

⁴ This court does not perceive that Thenell directly challenges the trial court's interpretation of WIS. STAT. § 346.46(2).

Thenell's brief recites three issues. She claims the trial court erred by not permitting her to introduce evidence that Waterstreet cited her as a "deliberate intent to cover up his attempts and that of several other officers of the ... Police Department, to harass, slander and intimidate" Thenell. She further contends that Waterstreet lied under oath "and committed other false truths." Finally, Thenell asserts that Waterstreet and the city attorney acted together to compromise her credibility, prejudice the judge against her, and "further slander [Thenell] with the court and others."

Thenell's statement of issues notwithstanding, her brief is primarily a recitation of facts that she testified to and offered exhibits to prove, but which the trial court rejected. As to the three issues Thenell identified, but particularly numbers two and three, she does not develop her arguments beyond pointing to her testimony and exhibits that conflicted with the City's evidence. This court will not abandon its neutrality by developing Thenell's amorphous and unsupported arguments for her. See *Barakat v. DHSS*, 191 Wis. 2d 769, 786, 530 N.W.2d 392 (Ct. App. 1995).

court could have made but did not. *In re Estate of Becker*, 76 Wis. 2d 336, 347, 251 N.W.2d 431 (1977).

¶4 This court defers to the trial court's assessment of weight and credibility. WIS. STAT. § 805.17(2). The trial court's credibility assessments will not be overturned unless they are inherently or patently incredible or in conflict with the uniform course of nature or with fully established or conceded facts. *See Chapman v. State*, 69 Wis. 2d 581, 583, 230 N.W.2d 824 (1975).

DISCUSSION

¶5 As indicated in footnote four, the thrust of Thenell's brief concentrates on two themes. Primarily, she argues facts that she believes prove her innocence, especially that she made a full stop before entering the intersection. Thenell also asserts a number of recent instances where she characterizes herself as the victim of police harassment and vendettas culminating in Waterstreet's alleged misconduct. There is no appellate merit to either position.

¶6 Under the applicable standard of review and the circumstances of this case, Thenell must show that the trial court's credibility assessment was inherently or patently incredible as a matter of law. She fails in this effort. In her brief, Thenell points to her testimony and exhibits in an effort to convince this court that Waterstreet could not have seen her vehicle at the point she claims to have stopped.⁵ Thenell made this same argument to the trial court. The court considered Waterstreet's testimony regarding what he saw and placed it in the

⁵ As the trial court noted, where this was in relation to the stop sign was unclear from her testimony.

context of the photo exhibits to implicitly reject Thenell's contention. A trial court's rejection of a party's evidence does not establish an opposing witness's inherent or patent incredibility.

¶7 Because this court concludes that the trial court's credibility determination is entitled to deference, Thenell cannot demonstrate that the court's finding that her vehicle paused twenty feet before the stop sign was clearly erroneous. Waterstreet's testimony supports this finding.

¶8 Finally, addressing Thenell's first stated issue, she strenuously asserts that she has been the subject of unprovoked police harassment. She argues that the trial court

refused to listen to my complete explanation and view my evidence of facts at my hearing on that date. I had evidence of proof why I believe that Officer Waterstreet issued a ticket to me without cause, with deliberate intent to cover up his attempts and that of several other officers ... to harass, slander and intimidate me. Yet, I was unable to present it.

¶9 The record does not support Thenell's assertion that the trial court did not permit her to present the evidence in question. Ironically, Thenell provides record cites to her testimony to support her contention that the police victimized her. The only instance that the trial court stopped Thenell from testifying was after she started to explain what happened as Waterstreet approached her vehicle. She immediately digressed into testifying about being stopped or followed more than twenty-four times in the previous year, and then went into confusing detail about one instance in particular, ending her statement with "And I have a stack of paperwork that shows me to be a nut, to be a belligerent gun tote'n nut and none of it's true. I spent a night"

¶10 At this point, the trial court attempted to redirect Thenell to the issue on trial, indicating that the court was “not dealing with [the] incident” that Thenell was trying to recount. Thenell responded by indicating to the court her view that the police had a personal vendetta against her and then giving precise reasons why she thought so. From this point on, the trial court did nothing to prevent or discourage Thenell’s further testimony. Thus, her claim of error is without merit.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

