COURT OF APPEALS
DECISION
DATED AND FILED

June 5, 2018

Sheila T. Reiff
Clerk of Court of Appeals

Appeal No. 2017AP364 **Cir. Ct. No. 2015CM4252**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ANTHONY IVEN JONES, A/K/A HASHIM HASAN,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: MICHELLE ACKERMAN HAVAS and CYNTHIA MAE DAVIS, Judges. *Affirmed*.

¶1 KESSLER, J.[1] Anthony Iven Jones, a/k/a/ Hashim Hasan, appeals from a judgment of conviction, following a jury trial, of one count of bail

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

jumping. Jones also appeals the order denying his postconviction motion. We affirm.

BACKGROUND

¶2 In October 2015, Jones was charged in Milwaukee County Circuit Court Case No. 15CM3542 with two counts of disorderly conduct, one count of battery and one count of intimidation of a witness, each subject to the domestic abuse assessment under WIS. STAT. § 973.055(1). A no-contact order was issued in case No. 15CM3542, requiring Jones to stay at least 500 feet away from his wife, T.W., and required Jones not to have any contact with T.W.

¶3 On December 5, 2015, Jones was charged with bail jumping, a violation of WIS. STAT. § 946.49(1)(a), in Milwaukee County Circuit Court Case No. 15CM4252. According to the criminal complaint, the charges stemmed from contact Jones made with T.W. in violation of the no-contact order that was a condition of his bond case No. 15CM3542.

¶4 Both cases were consolidated for trial. T.W. testified that she and Jones were married for a number of years and had four children. The couple was in the process of obtaining a divorce at the time of the alleged altercation leading to the charges in case No. 15CM3542. T.W. stated that on October 5, 2015, she was in the bathroom when Jones approached her upset because of the divorce. Jones got physical with T.W., pushing her and kicking her at one point. T.W. managed to call 911. The incident resulted in the charges underlying case No. 15CM3542.

¶5 T.W. also testified that on December 3, 2015, her eldest son, J.H., came home while on the phone with Jones. While on the phone with Jones, J.H.

told T.W. that Jones was "threatening, saying that he was going to break the restraining order, he was going to break all the restraining orders." J.H. then put Jones on speaker and Jones addressed T.W. directly, telling her "he's going to break the restraining order." T.W. also stated that at the time of the phone call, Jones was outside of her home because she could hear him yelling from outside of a window. T.W. called the police.

¶6 Officer Matthew O'Malia testified that he was dispatched to T.W.'s home on December 3, 2015. He stated that when he arrived, Jones was approximately two houses north of T.W.'s home. He stated that the distance was approximately ninety-two feet from T.W.'s home. O'Malia also corroborated T.W.'s testimony, telling the jury that T.W. relayed Jones's threatening message to him.

¶7 Jones also testified, admitting that he was aware of the no-contact order prohibiting contact with T.W. Jones stated that he knew he was to keep a distance from T.W. and generally parked multiple blocks away from the home when he was picking up his children. He admitted that he moved closer to T.W.'s home on December 3, 2015, however, upon learning that T.W. called the police. Jones explained that he wanted to wait for the police himself so that he could speak with officers directly.

¶8 The jury found Jones not guilty of the charges underlying case No. 15CM3542, but found Jones guilty of bail jumping. Jones moved for judgment notwithstanding the verdict, but the trial court found there was sufficient evidence to sustain the jury's verdict. The trial court sentenced Jones to six months in the House of Correction and imposed the domestic abuse assessment.

¶9 Jones filed a postconviction motion arguing that the domestic abuse assessment was improperly imposed and that his judgment of conviction should be amended to add his legal name, Hashim Hasan. The postconviction court denied the motion as to the domestic abuse assessment, but granted Jones's motion "to amend the judgment of conviction by adding his legal name of 'Hashim Hasan' as an a/k/a." This appeal follows.

DISCUSSION

¶10 On appeal, Jones again argues that there was insufficient evidence to support his conviction and that the domestic abuse assessment was improperly applied. He also argues that the postconviction court only partially granted his motion to amend the judgment of conviction by adding his legal name as an "a/k/a." Jones argues that the name "Anthony Iven Jones" should be completely removed from the judgment of conviction and only his legal name, "Hashim Hasan" should be reflected. We address each issue in turn.

I. Sufficiency of the Evidence.

¶11 In reviewing a challenge to the sufficiency of the evidence to support a conviction, we may not substitute our judgment for that of the trier of fact; instead, the question is whether the evidence, viewed most favorably to the verdict, is so lacking in probative force and value that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt. *See* ***State v. Poellinger***, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). Whether the evidence is sufficient to support the conviction is a question of law that we review *de novo*. *See* ***State v. Booker***, 2006 WI 79, ¶12, 292 Wis. 2d 43, 717 N.W.2d 676.

¶12 It is undisputed that a no-contact order prohibiting Jones from contacting T.W. or coming within 500 feet of T.W. was in place at the time O'Malia responded to T.W.'s residence. O'Malia testified that he found Jones approximately ninety-two feet away from T.W's residence. T.W. testified that she heard Jones threaten to break the restraining order and that she heard Jones outside of her home. Jones admitted that he knew the no-contact order was in place, yet purposely moved closer to T.W.'s home after learning that she called the police. The evidence supporting the jury's verdict is ample.

II. Domestic Abuse Assessment.

¶13 Jones contends that the domestic abuse assessment was improperly applied to his bail jumping conviction because "the nature of the conviction must also meet the definition of 'Domestic Violence' as defined in [WIS. STAT. §] 968.075." Jones bases his argument on ***State v. O'Boyle***, No. 2013AP1004-CR, unpublished slip op. (WI App Feb. 4, 2014)—an unpublished, one-judge, court of appeals decision. We are not persuaded.

¶14 WISCONSIN STAT. § 973.055(1) states:

> If a court imposes a sentence on an adult person or places an adult person on probation, regardless of whether any fine is imposed, the court shall impose a domestic abuse surcharge under ch. 814 of $100 for each offense if:
>
> (a) 1. The court convicts the person of a violation of a crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.19, 940.20(1m), 940.201, 940.21, 940.225, 940.23, 940.235, 940.285, 940.30, 940.305, 940.31, 940.32, 940.42, 940.43, 940.44, 940.45, 940.48, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, 946.49, 947.01(1), 947.012 or 947.0125 or of a municipal ordinance conforming to s. 940.201, 941.20, 941.30, 943.01, 943.011, 943.14, 943.15, *946.49*, 947.01(1), 947.012 or 947.0125; and

> 2. The court finds that the conduct constituting the violation under subd. 1 involved an act by the adult person against his or her spouse or former spouse, against an adult with whom the adult person resides or formerly resided or against an adult with whom the adult person has created a child ….

(Emphasis added.)

¶15 The plain language of the statute has two requirements: (1) a conviction under one of the listed statutes and (2) a finding that the conduct was committed against a certain person. Both of those elements are present here. Jones was convicted under WIS. STAT. § 946.49 and his conduct was committed against a spouse with whom he shares multiple children. ***O'Boyle*** does not add the requirement that "the nature of the conviction must also meet the definition of 'Domestic Violence' as defined in [WIS. STAT. §] 968.075." Rather, in ***O'Boyle*** we concluded that the facts in the complaint did not fit the domestic abuse definition because O'Boyle's actions were not directed against the victim as described in the surcharge statute, WIS. STAT. § 973.055(1)(a)2. *See* ***O'Boyle***, No. 2013AP1004-CR, ¶25. Here, Jones's actions were clearly directed against T.W. ***O'Boyle*** is not applicable. Accordingly, the domestic abuse assessment was properly applied.

III. Amendment of the Judgment of Conviction.

¶16 Lastly, Jones contends that the judgment of conviction should be amended to only reflect his legal name, Hashim Hasan. We agree with the postconviction court that because Jones was charged under the name "Anthony Iven Jones," that "both law enforcement and the public have an interest in being able to access the public records of this case under the name by which he was charged and convicted." We conclude that the postconviction court properly

exercised its discretion in adding Jones's legal name to the judgment of conviction as an "a/k/a." *See* ***Williams v. Racine Cty. Circuit Court***, 197 Wis. 2d 841, 846, 541 N.W.2d 514 (Ct. App. 1995) (circuit court properly exercised its discretion in denying inmate's petition for a name change because the State had a legitimate interest in being able to identify the inmate by the name under which he was charged).

¶17 For the foregoing reasons, we affirm the circuit court.

By the Court.—Judgment and order affirmed.

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