

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-0974**

State of Minnesota,
Respondent,

vs.

Ardis Leann Copeman,
Appellant.

**Filed April 24, 2017
Affirmed
Halbrooks, Judge**

Fillmore County District Court
File No. 23-CR-16-83

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Lee Michael Novotny, Spring Valley City Attorney, Novotny Law Office, Ltd., Chatfield,
Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Veronica May Surges, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Cleary, Chief Judge; and
Jesson, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges her conviction of failure to stop for a school bus with its stop-
signal arm lowered pursuant to Minn. Stat. § 169.444, subd. 1 (2014), arguing the state

failed to provide sufficient evidence that the bus was marked as required by Minn. Stat. § 169.441 (2014). We affirm.

FACTS

On January 28, 2016, M.J. was driving a school bus southbound on Pleasant Avenue in Spring Valley. M.J. stopped at a bus stop just south of a gas station. M.J. noticed a car that was driven by appellant Ardis Leann Copeman traveling northbound on Pleasant Avenue, approaching the school bus. M.J. opened the door to the school bus, which also extended the stop-signal arm and activated the flashing red lights. While the school bus was stopped, Copeman drove past it without stopping and turned into the gas station parking lot. M.J. subsequently drove into the gas station parking lot and recorded Copeman's license-plate number.

At a bench trial, M.J. testified that this incident occurred while he was driving a big yellow school bus with school bus markings on it. The district court determined that the bus "had the appropriate markings as a school bus" and found Copeman guilty. This appeal follows.

DECISION

Copeman contends that the district court erred when it determined that the state provided sufficient evidence that the school bus was properly marked. Although respondent failed to file a brief, we review the case on the merits. Minn. R. Civ. App. P. 142.03; *see* Minn. R. Crim. P. 28.01, subd. 2 (stating that the rules of civil appellate procedure govern criminal appeals unless stated otherwise).

“[Appellate courts] use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). In considering a claim of insufficient evidence, our review is limited to a “painstaking analysis” of the record to determine whether the evidence, viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court must assume that “the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not disturb the verdict if the fact-finder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

The district court convicted Copeman of failure to stop for a school bus under Minn. Stat. § 169.444, subd. 1, which provides:

When a school bus is stopped on a street or highway . . . and is displaying an extended stop-signal arm and flashing red lights, the driver of a vehicle approaching the bus shall stop the vehicle at least 20 feet away from the bus. The vehicle driver shall not allow the vehicle to move until the school bus stop-signal arm is retracted and the red lights are no longer flashing.

This statute applies “if the school bus bears on its front and rear a plainly visible sign containing the words ‘school bus’ in letters at least eight inches in height.” Minn. Stat. § 169.441, subd. 3(a).

At trial, the following exchange occurred between the district court and M.J. with respect to the markings on the school bus:

THE COURT: And is this a typical school bus?

M.J.: Yes.

THE COURT: It has markings on it?

M.J.: Has what?

THE COURT: It has school bus markings on it?

M.J.: Yes. Oh, yes. A big yellow school bus.

Copeman contends that this evidence is circumstantial, which would require us to apply a heightened scrutiny in determining whether or not it was sufficient to support a conviction. *See State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). We disagree.

“Circumstantial evidence” is defined as “[e]vidence based on inference and not on personal knowledge or observation” and “[a]ll evidence that is not given by eyewitness testimony.” *Black’s Law Dictionary* 674 (10th ed. 2014). “Direct evidence” is “[e]vidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *Id.* at 675. In testifying that the bus was “[a] big yellow school bus” and “ha[d] school bus markings on it,” M.J. testified based on his personal knowledge and observations. M.J.’s testimony is therefore direct evidence of the markings on the bus.

“In reviewing the sufficiency of evidence in a criminal case, we are limited to ascertaining whether, given the facts in the record and the legitimate inferences that can be drawn from those facts, a jury could reasonably conclude that the defendant was guilty of the offense charged.” *Bernhardt*, 684 N.W.2d at 476 (quotation omitted). M.J.’s testimony that he was driving “[a] big yellow school bus” with “school bus markings on it” was clear.

This evidence is sufficient for a fact-finder to reasonably conclude that the bus was marked as the statute requires.

Affirmed.