

*This opinion will be unpublished and  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  
A17-1003**

State of Minnesota,  
Respondent,

vs.

Donavon Allen St. Claire,  
Appellant.

**Filed May 21, 2018  
Affirmed  
Johnson, Judge**

Hennepin County District Court  
File No. 27-CR-16-31031

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

Michael O. Freeman, Hennepin County Attorney, Jean Burdorf, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Johnson, Judge; and Kirk, Judge.

**UNPUBLISHED OPINION**

**JOHNSON, Judge**

A Hennepin County jury found Donavon Allen St. Claire guilty of third-degree assault based on evidence that he beat and injured a man at a light-rail station. St. Claire

argues that the state's evidence is insufficient to prove that he caused the victim substantial bodily harm. We affirm.

## **FACTS**

On November 23, 2016, at approximately 7:15 p.m., the Metro Transit Police Department received a report of an assault at the light-rail station near the intersection of East Lake Street and Hiawatha Avenue South in Minneapolis. Officers found a 52-year-old man, B.B., on the upper platform of the station. He was bleeding from the area around his right eye, his forehead, and the back of his head. He had a bump on the left side of his forehead, and his right eye was swollen shut. B.B. told officers that someone had knocked him to the ground and punched him while he lay there. B.B. was taken by ambulance to the Hennepin County Medical Center, where he was treated for his injuries. In a recorded interview, St. Claire admitted that he was present at the light-rail station but denied assaulting B.B.

In December 2016, the state charged St. Claire with third-degree assault, in violation of Minn. Stat. § 609.223, subd. 1 (2016). The case was tried to a jury on two days in March 2017. The state called four witnesses: B.B., the police officer who initially responded to the report, the police officer who investigated the assault, and the emergency-room physician who treated B.B. The state played for the jury a video-recording of the assault that was captured by a surveillance camera. The state also introduced exhibits consisting of photographs of B.B.'s injuries. St. Claire did not introduce any evidence.

The jury found St. Claire guilty. The district court sentenced him to 21 months of imprisonment. St. Claire appeals.

## DECISION

St. Claire argues that the state's evidence is insufficient to support his conviction of third-degree assault on the ground that the evidence does not establish that he inflicted "substantial bodily harm" on B.B.

When this court seeks to determine whether the evidence is sufficient to support a conviction, we undertake "a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient to" support the conviction. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). We assume that "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). If the jury's verdict depends on its resolution of conflicting evidence, "we will not disturb the verdict if the jury, 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." *Ortega*, 813 N.W.2d at 100. If a criminal offender argues that the state's evidence is insufficient because the facts proved by the state do not satisfy the requirements of the applicable law, our appellate review focuses on the applicable law. *See State v. Smith*, 899 N.W.2d 120, 122 (Minn. 2017). When interpreting a statute, we apply a *de novo* standard of review. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017).

In this case, the relevant statute provides that any person who "assaults another and inflicts substantial bodily harm" is guilty of third-degree assault. Minn. Stat. § 609.223, subd. 1. The term "substantial bodily harm" is defined by statute to mean "bodily injury

[1] which involves a temporary but substantial disfigurement, or [2] which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or [3] which causes a fracture of any bodily member.” Minn. Stat. § 609.02, subd. 7a (2016). St. Claire contends that the state’s evidence does not satisfy any of the three alternatives in the statutory definition. In response, the state contends that the evidence satisfies both the first and the second alternatives.

We first consider whether the evidence is sufficient to satisfy the first alternative definition of substantial bodily harm: “bodily injury which involves a temporary but substantial disfigurement.” *See id.* To interpret the statutory definition, it is appropriate to “look to dictionary definitions to determine the common and ordinary meanings of these terms.” *Thonesavanh*, 904 N.W.2d at 436. The word “disfigurement” is defined as “a deformity, defacement,” *The Oxford Universal Dictionary* 525 (3d ed. 1964), or “something that disfigures,” *The Random House Dictionary of the English Language* 565 (2d ed. 1987). To “disfigure” means “[t]o mar or spoil the appearance or shape of.” *The American Heritage Dictionary* 533 (3d ed. 1996). To satisfy the statutory standard, any disfigurement must be “substantial.” *See* Minn. Stat. § 609.02, subd. 7a. The word “substantial” means a “considerable size or amount,” *State v. Williams*, 451 N.W.2d 886, 890 (Minn. App. 1990) (quotation marks omitted), or “[a]mple” or “[c]onsiderable in . . . amount or extent,” *The American Heritage Dictionary*, *supra*, 1791. Thus, we interpret the phrase “substantial disfigurement” in this context to mean a considerable amount or extent of a defacement, deformity, or spoilt appearance of a part of a person’s body.

The evidentiary record in this case contains a considerable amount of evidence concerning the nature and extent of B.B.'s injuries. Officer Peralta testified that when he arrived at the light-rail station, he "immediately noticed that [B.B.] had [been] severely injured, most notably, on the face and the head area." The officer testified that B.B. "had severe damage on his eye socket" and that "his eye was so damaged that his eyelid was closed." The officer further testified, "At no time [while] talking to [B.B.] did I see him being able to open that eye." The photographic exhibits show that B.B. had lacerations on his right eyelid, fresh blood on his face, bruising on his lower eyelid, and swelling to such an extent that his right eye was closed. The emergency-room physician who treated B.B. testified that he had a laceration and bruises around his right eye. B.B. testified that, after the incident, he had difficulty seeing out of his right eye because "[i]t was completely closed." He said that the eye was "swolled up shut" for four or five days.

The evidence in this case is similar to or more serious than the evidence that has sustained convictions of third-degree assault in other cases. For example, in *State v. Harlin*, 771 N.W.2d 46 (Minn. App. 2009), *review denied* (Minn. Nov. 17, 2009), this court affirmed the appellant's conviction because the victim's injuries (a permanent scar on her head, chipped teeth, and discoloring bruises to her back) constituted substantial disfigurement. *Id.* at 50-51. Similarly, in *State v. Carlson*, 369 N.W.2d 326 (Minn. App. 1985), *review denied* (Minn. July 26, 1985), this court affirmed the appellant's conviction because the victim's injuries (bruises to her eyes, bruises to her face, bruises to her neck and head, and scratches to her arm) constituted substantial bodily harm (although the opinion does not specify the type of substantial bodily harm). *Id.* at 327-28. In light of the

common and ordinary meanings of the words used in the relevant statutes, and in light of this court's caselaw, the state's evidence in this case is sufficient to prove substantial disfigurement and, thus, satisfies the first alternative definition of substantial bodily harm. See Minn. Stat. § 609.02, subd. 7a.

St. Claire contends that *Carlson* and other opinions offer little guidance because a finding of substantial disfigurement “necessarily depends on the specific injuries and their effect on a particular victim's appearance.” St. Claire further contends that the evidence in this case is insufficient to prove substantial disfigurement because the evidence established “merely that [B.B.'s] eye was shut, not that the appearance of his face had changed considerably.” In response, the state contends that “B.B.'s eye was not just bruised” but “completely swollen shut for nearly a week.”

We agree with St. Claire that the sufficiency of the evidence of substantial disfigurement is a case-specific inquiry. We have conducted such an inquiry. We have reviewed the photographs of B.B. that were taken while he was being treated at the Hennepin County Medical Center. Based on our visual review of that evidence, as well as our review of the testimony of the state's witnesses, we conclude that St. Claire caused substantial disfigurement to B.B.'s eyelids and eye socket. It is immaterial that the disfigurement lasted less than a week because the statutory definition is satisfied if the substantial disfigurement is “*temporary*.” See *id.* (emphasis added).

Accordingly, the state's evidence is sufficient to prove that St. Claire inflicted substantial bodily harm on B.B. by inflicting “bodily injury which involves a temporary but substantial disfigurement.” See *id.* In light of that conclusion, we need not consider

St. Claire’s argument that the state’s evidence does not satisfy the second alternative definition of “substantial bodily harm,” which is “bodily injury . . . which causes a temporary but substantial loss or impairment of the function of any bodily member or organ.” *See id.* In sum, the evidence is sufficient to support St. Claire’s conviction of third-degree assault.

St. Claire has filed a *pro se* supplemental brief. He reiterates the sufficiency-of-the-evidence argument raised by his appellate counsel, which we have considered and resolved. He also argues that his conviction should be reversed on the grounds of ineffective assistance of counsel and judicial misconduct. But he does not identify with any particularity the deficiencies in his trial attorney’s performance or the objectionable conduct of the district court judge who presided over his trial and sentencing. Without specific allegations, we are unable to conduct appellate review. *See State v. Sontoya*, 788 N.W.2d 868, 876 (Minn. 2010); *State v. Bartylla*, 755 N.W.2d 8, 22-23 (Minn. 2008). We will, however, consider an allegation of reversible error if it “is obvious on mere inspection.” *State v. Taylor*, 869 N.W.2d 1, 22 (Minn. 2015) (quoting *Louden v. Louden*, 221 Minn. 338, 339, 22 N.W.2d 164, 166 (1946)). But we do not perceive any obvious procedural error in St. Claire’s trial. Thus, we conclude that St. Claire’s *pro se* arguments lack merit.

**Affirmed.**