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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1837**

In the Matter of the Welfare of: T. M., Jr., Child.

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

Blue Earth County District Court
File No. 07-JV-17-567

Cathryn Middlebrook, Chief Appellate Public Defender, Leslie J. Rosenberg, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Patrick R. McDermott, Blue Earth County Attorney, Susan B. DeVos, Assistant County Attorney, Mankato, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Reilly, Judge; and Stauber, Judge.*

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant juvenile challenges his delinquency adjudication for misdemeanor domestic assault, arguing that the evidence is insufficient to prove that he caused bodily harm when he slapped his mother in the face. We affirm.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

FACTS

Appellant T.M., Jr., then 15 years old, called police to report that his mother had locked him in an unheated garage in December 2016. Police responded and spoke with T.M., Jr. and his mother, B.B., who both described an argument that they had in the car that day that led to a physical altercation. B.B. accused T.M., Jr. of “hit[ting] her on the left side of her face,” which loosened her glasses. In a squad car recording and according to the testimony of the officer who was with T.M., Jr. in the squad car, T.M., Jr. admitted that he struck his mother by slapping her with an open hand after she struck him first. The state filed a juvenile delinquency petition charging T.M., Jr. with misdemeanor domestic assault.

The case was tried to the court. Throughout her testimony, B.B. retreated from her statements to law enforcement and downplayed the incident. The district court found that T.M., Jr. “admitted that he had slapped his mother,” that he did so with intent to cause her bodily harm, and that he did not act in self-defense. While noting that neither party “was injured by the other’s activity in the common sense of the word,” the court concluded that T.M., Jr.’s act amounted to assault. T.M., Jr. appeals.

DECISION

T.M., Jr. argues that the evidence is insufficient to support a finding of guilt for misdemeanor assault. We apply the same standard of review in an appeal from a bench trial that we apply in jury trials, *State v. Burnett*, 867 N.W.2d 534, 537 (Minn. App. 2015), *review denied* (Minn. Oct. 20, 2015), and therefore “view the evidence in a light most favorable to the [adjudication of guilt] to determine whether the facts in the record and the legitimate inferences drawn from them would permit the [fact-finder] to reasonably

conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Hanson*, 800 N.W.2d 618, 621 (Minn. 2011) (quotations omitted). We will not reverse if the fact-finder, “acting with due regard for the presumption of innocence and for the necessity of overcoming it by proof beyond a reasonable doubt, could reasonably conclude that [a] defendant was proven guilty of the offense charged.” *Id.* (alteration in original) (quotation omitted).

A person commits misdemeanor assault by “intentionally inflict[ing] or attempt[ing] to inflict bodily harm upon” “a family or household member.” Minn. Stat. § 609.2242, subd. 1(2) (2016); see Minn. Stat. § 609.02, subd. 10(2) (2016) (generally defining “assault” as “the intentional infliction of or attempt to inflict bodily harm upon another”). “Bodily harm” is defined as “physical pain or injury, illness, or any impairment of physical condition.” Minn. Stat. § 609.02, subd. 7 (2016).

T.M., Jr.’s sole assertion on appeal is that the evidence is not sufficient to prove that he committed an assault because B.B. did not sustain bodily injury. He specifically notes the district court’s finding that “[t]here is no indication that either of the parties was injured by the other’s activity in the common sense of the word.” We need not address this argument because the district court found that T.M., Jr. “struck his [m]other with that act intending to cause bodily harm.” T.M., Jr. does not challenge this finding, and the record evidence supports it. Because attempting to cause bodily harm falls within the scope of the misdemeanor assault offense, the state was not required to prove B.B. actually sustained bodily injury. Accordingly, we affirm.

Affirmed.