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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-2029**

State of Minnesota,
Respondent,

vs.

Levon Elias Jackson,
Appellant.

**Filed November 19, 2018
Affirmed
Halbrooks, Judge**

Ramsey County District Court
File No. 62-CR-17-1146

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

John J. Choi, Ramsey County Attorney, Adam E. Petras, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

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

Considered and decided by Hooten, Presiding Judge; Halbrooks, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges his conviction of malicious punishment of a child, arguing that the evidence is insufficient to establish that he used unreasonable force when disciplining the child. We affirm.

FACTS

On September 22, 2016, appellant Levon Elias Jackson received a call that D.T., the son of his fiancée, G.G., was misbehaving in school. D.T. was six years old at the time. Jackson spoke with D.T. and encouraged him to apologize to his teachers and classmates and “turn [his] day around.” Jackson and G.G. then discussed how to address D.T.’s behavior. They decided that the appropriate punishment would be for Jackson to spank D.T.

When D.T. returned home from school, Jackson and G.G. talked with D.T. about why he was going to be punished. They explained that D.T.’s behavior was unacceptable and needed to change. Jackson then spanked D.T. using D.T.’s belt. He struck him approximately six times. Jackson, G.G., and D.T. then ate dinner together, bathed D.T., and did his homework.

The following day, D.T. spent the night with his grandmother, D.G. When D.G. helped D.T. put on his pajamas, she noticed extensive bruising on the side of his leg. D.G. called G.G. to ask about the bruises. Jackson took the phone and explained that he spanked D.T. The next morning, D.T.’s father picked him up and saw the bruises. He immediately

took D.T. to the police department. The police took photographs of the bruises and interviewed Jackson, G.G., and D.T. Jackson admitted to spanking D.T.

The state charged Jackson with one count of malicious punishment of a child. The district court held a jury trial, and Jackson was found guilty. The district court sentenced Jackson to 90 days in jail, stayed, and placed Jackson on probation for one year. This appeal follows.

D E C I S I O N

Jackson argues there is insufficient evidence to support his conviction because the state did not prove that he caused D.T.'s bruises. When considering a sufficiency-of-the-evidence argument, we ascertain whether the facts in the record and the legitimate inferences that can be drawn from those facts would permit a jury to reasonably conclude that the defendant was guilty of the charged offense. *State v. Merrill*, 274 N.W.2d 99, 111 (Minn. 1978). We view the evidence in the light most favorable to the jury's verdict, and 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).

When a conviction is based on circumstantial evidence, we use a two-step process. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, we identify the circumstances proved, assuming that the jury resolved any factual disputes in a manner that is consistent with the jury's verdict. *Id.* at 598-99. Second, this court independently examines the reasonableness of the inferences the jury could draw from those circumstances. *Id.* at 599. All circumstances proved must be consistent with guilt and inconsistent with any rational hypothesis except that of guilt. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010).

Jackson argues that there is insufficient evidence to support his conviction because the state did not prove that he was the one who caused D.T.'s bruises. He does not challenge the determinations that he spanked D.T. and that the bruising evidences the use of unreasonable force. Rather, he argues that there is a rational hypothesis that G.G. also spanked D.T. and caused the bruises. At trial, the prosecutor asked D.T. if G.G. did anything while he was being spanked. D.T. answered that she was in the room and "they were kind of like trying to take turns or something like that. I don't remember—I don't really remember."

Jackson asserts that based on the above testimony, there is a rational inference that G.G. caused D.T.'s bruises. But D.T.'s equivocal statement that G.G. and Jackson may have taken turns is the only statement that suggests that G.G. may have participated in the spanking. D.T. indicated that he "[didn't] really remember" what his mother did while he was being spanked. Jackson testified that he spanked D.T. but did not suggest that G.G. did. D.G. testified that when she called G.G. to ask about the bruises, Jackson took the phone and "said he was the one that spanked [D.T.]." And when asked how he got the bruises, D.T. responded "when he was like whooping me on my butt then it kind of got on the side of my leg." During his custodial interview, Jackson told police that "the belt slipped and hit the side of [D.T.'s] leg" while he was spanking D.T. Thus, the evidence reflects that Jackson struck D.T. on the locations that D.T. suffered bruising. There is no evidence that G.G. did. Accordingly, the circumstances proved are inconsistent with the hypothesis that G.G. caused the bruising.

Finally, Jackson notes that corporal punishment is legal in Minnesota. *See* Minn. Stat. § 609.06, subd. 1(6) (2016) (noting a parent or guardian may use “reasonable force” to correct a child’s behavior). Jackson argues that he used reasonable force because the district court judge stated that both he and the jurors believed that Jackson acted with good intentions. But the state was not required to prove that Jackson intended to cause the bruises. *See State v. Fleck*, 810 N.W.2d 303, 309-10 (Minn. 2012) (concluding that assault-harm is a general-intent crime because it requires only that the defendant intended to do the physical act and not that the defendant intended to cause a particular result). Rather, the statute provides that an individual is guilty of malicious punishment of a child if he “by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force.” Minn. Stat. § 609.377, subd. 1 (2016). Jackson admitted that he intentionally spanked D.T. using D.T.’s belt. And the bruises occurred in the areas where Jackson spanked D.T. On this record, we conclude that the evidence is sufficient to sustain Jackson’s conviction.

Affirmed.