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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-2074**

State of Minnesota,
Respondent,

vs

Clayton Robert Briggs,
Appellant.

**Filed December 24, 2018
Affirmed
Halbrooks, Judge**

Blue Earth County District Court
File No. 07-CR-17-818

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)

Cathryn Middlebrook, Chief Appellate Public Defender, Rochelle R. Winn, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Schellhas, Judge; and
Randall, Judge.*

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

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges his conviction of assault in the second degree on the ground that the evidence is insufficient to prove that he intended to cause fear in the victim. We affirm.

FACTS

In March 2017, appellant Clayton Robert Briggs and his girlfriend, N.L., were driving home from dinner. Briggs pulled into a parking lot and told N.L. that he was going to return a car title to J.S., who was parked in the lot. Briggs and J.S. had a history of conflict and had been engaged in a dispute about the car title. When J.S. saw Briggs, he got out of his car and approached Briggs's vehicle. J.S. and Briggs exchanged words. J.S. punched Briggs's vehicle and told him that he would be "eating his next meal through a feeding tube." Briggs reversed his vehicle, but as J.S. walked in front of Briggs's vehicle, Briggs drove forward, striking J.S. Briggs and N.L. left the scene without assisting J.S. and drove to N.L.'s house. J.S. called 911 and was taken to the hospital. Briggs was subsequently charged with second-degree assault.

At a bench trial, the district court heard testimony from Briggs, J.S., N.L., and three police officers. The district court also reviewed a surveillance video from the parking lot, which captured the incident. The district court found that Briggs intentionally struck J.S. with his vehicle and found Briggs guilty of assault in the second degree. This appeal follows.

DECISION

On review of a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the verdict and assume that the fact-finder believed the state's witnesses and disbelieved any evidence to the contrary. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). Briggs challenges the sufficiency of the evidence of intent. To determine if circumstantial evidence is consistent with Briggs's guilt, we apply a two-step analysis. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013).

First, we identify the circumstances proved, construing the evidence in the light most favorable to the verdict and deferring to the fact-finder's determinations. *State v. Petersen*, 910 N.W.2d 1, 6-7 (Minn. 2018). Second, we independently determine the reasonableness of the inferences a fact-finder could draw from the circumstances proved. *Silvernail*, 831 N.W.2d at 599. We do not look at the circumstances proved as isolated facts, but rather as a whole to determine whether they form a "complete chain that . . . leads so directly to the guilt of the defendant as to exclude . . . any reasonable inference other than guilt." *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted). 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).

A person who assaults another with a dangerous weapon is guilty of assault in the second degree. Minn. Stat. § 609.222, subd. 1 (2016). Assault is defined in Minn. Stat. § 609.02, subd. 10(1), (2) (2016), as "an act done with intent to cause fear in another of immediate bodily harm or death," also known as assault-fear, or as "the intentional infliction of or attempt to inflict bodily harm upon another," also known as assault-harm.

Assault-fear is a specific-intent crime, while assault-harm is a general-intent crime. *State v. Fleck*, 810 N.W.2d 303, 309 (Minn. 2012).

Briggs contends that because the district court found that J.S. was not injured, this crime was assault-fear, not assault-harm. He argues that the evidence is insufficient to prove that he acted with specific intent to cause fear of immediate bodily harm or death in J.S. The state contends that this is a mischaracterization of the statute. We agree. The state correctly notes that an injury is not required to meet the statutory definition of assault-harm. Minn. Stat. § 609.02, subd. 7 (2016), defines bodily harm as “physical pain or injury, illness, or any impairment of physical condition.” J.S. testified that his hip was bruised. One of the officers testified that when he responded to the scene, J.S. told him that his right hand, arm, and shoulder hurt. The officer called an ambulance, and J.S. was taken to the hospital for evaluation. The officer learned from the treating physician that J.S.’s pain was “muscular only.” Under the plain meaning of the statute, this is sufficient to support an assault-harm analysis.

Assault-harm is a general-intent crime which requires “the intentional infliction of or attempt to inflict bodily harm upon another.” Minn. Stat. § 609.02, subd. 10(2). “Intentionally” means that the actor “either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(3) (2016). Because the intent element of a crime involves a state of mind, it is often proven with circumstantial evidence. *State v. Davis*, 656 N.W.2d 900, 905 (Minn. App. 2003), *review denied* (Minn. May 20, 2003). A fact-finder is in the best position to evaluate witness credibility and to “weigh the evidence

regarding intent.” *Id.* Here, intent was proven at trial by circumstantial evidence, including the surveillance video and the testimony of the officers and N.L.

Taken in the light most favorable to the verdict, the circumstances proved are as follows. Briggs and J.S. have a negative history with one another, related in part to a dispute about a vehicle title. Briggs saw J.S. in a parking lot. Briggs pulled into the parking lot near J.S.’s vehicle, ostensibly to return the title. J.S. got out of his parked car and approached Briggs’s vehicle. J.S. stood near the driver’s side door of Briggs’s vehicle, yelled at Briggs, and punched the vehicle. Briggs reversed his vehicle. As J.S. walked in front of Briggs’s vehicle, Briggs accelerated forward, striking J.S. N.L. testified that Briggs slowed down after hitting J.S. but did not stop. Instead, Briggs drove away. J.S. called 911. Based on the surveillance video, an officer testified that there was a path in the parking lot for Briggs to reverse and exit the area without hitting J.S. The officer also testified that there was a path for Briggs to “move to the left with his vehicle” and exit the lot, but Briggs did not do so. The officer testified that Briggs “accelerated quickly” and did not take a route that “insured that he would not strike” J.S. And N.L. testified that J.S. did not “move quick enough” and that Briggs did not care if he hit J.S. or not.

Next, we determine whether these circumstances are consistent with guilt and inconsistent with any rational hypothesis other than guilt. *Silvernail*, 831 N.W.2d at 599. Briggs argues that the circumstances proved are not inconsistent with the hypothesis that he was trying to escape J.S., not trying to hit him. Briggs testified at trial that he put the vehicle in reverse to “flee” from J.S., that he did not know that he hit J.S., and that he did not intend to do so. The district court did not credit this testimony.

In light of the circumstances proved, Briggs's hypothesis is not a rational one. J.S. was walking away from Briggs when he was struck. After hitting J.S., Briggs slowed but did not stop. N.L. testified that she did not think Briggs cared whether he hit J.S. or not. And, after viewing the surveillance video, an officer testified that Briggs could have taken other paths to avoid hitting J.S. and did not do so. The only rational hypothesis to infer from these circumstances is that Briggs intended to hit J.S. with his vehicle. Accordingly, we conclude that the evidence is sufficient to sustain Briggs's conviction.

Affirmed.