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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0967**

Wilbert Arnold Sandstrom, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 25, 2019
Affirmed
Hooten, Judge
Dissenting, Klaphake, Judge***

St. Louis County District Court
File No. 69HI-CR-15-958

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

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark S. Rubin, St. Louis County Attorney, Virginia, Minnesota; and

Sharon Chadwick, Assistant County Attorney, Hibbing, Minnesota (for respondent)

Considered and decided by Rodenberg, Presiding Judge; Hooten, Judge; and
Klaphake, Judge.

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

UNPUBLISHED OPINION

HOOTEN, Judge

In this appeal from the district court's denial of appellant's petition for postconviction relief, appellant argues that his conviction of misdemeanor trespassing must be reversed because the state failed to prove beyond a reasonable doubt that he returned to the property with the intent to disturb his neighbor. We affirm.

FACTS

Appellant Wilbert Sandstrom had a history of legal and personal disputes with his neighbor. In 2007, following a civil land dispute, a St. Louis County district court enjoined Sandstrom from trespassing on his neighbor's land and from destroying any property on his neighbor's land.

In late 2015, the neighbor saw Sandstrom driving across his property. This was not the first time the neighbor saw Sandstrom on his property since the 2007 court order. So when the neighbor saw Sandstrom again on his property, he was frustrated and approached Sandstrom. The neighbor asked Sandstrom why he was trespassing on his land, but Sandstrom ignored his question and drove off.

The neighbor immediately sought help. He called 911 to report that Sandstrom was again on his land. He also called his brother who lived nearby to come over and take photographs of Sandstrom on his property as evidence. When the brother arrived, he saw Sandstrom walking up the gravel driveway toward the neighbor's home and photographed him. The brother reminded Sandstrom that he was not supposed to be there. Sandstrom

told the brother that he was looking for his lost dog. Then Sandstrom left the property and returned to his car which he had parked off the property.

At some point after the neighbor first called law enforcement, Sandstrom also called law enforcement to report his dog was missing and that his neighbor was holding his dog hostage. Deputy Andrew Feiro of the St. Louis County Sheriff's Office was dispatched to the neighbor's home. Sandstrom met with the deputy and told him that his neighbor had his dog and was not giving him back. He also told Deputy Feiro that he had not trespassed on his neighbor's property, but claimed that the field he drove through was a township road and that he was fighting a court order involving it.

Deputy Feiro then spoke with the neighbor, who had found Sandstrom's dog by his garage and had tied him up. The deputy brought Sandstrom's dog back to him and ticketed Sandstrom for trespassing in violation of Minn. Stat. § 609.605, subd. 1(b)(7) (2014).

A bench trial was held. At trial, Sandstrom did not dispute that he was on the property, but disputed that he had returned to the property with the requisite intent to "abuse, disturb, cause distress in or threaten another," claiming that his intent was to look for his dog. However, the neighbor's brother testified that during the telephone conversation he received from the neighbor asking him to come over and photograph Sandstrom on his property, the neighbor had told him that when he first saw Sandstrom on his land, the dog was with him. The court found Sandstrom guilty of trespassing and sentenced him to 30 days in jail stayed for one year and one year of probation.

Sandstrom petitioned for postconviction relief, arguing that the evidence was insufficient to convict him of returning to the property with intent to abuse, disturb, cause

distress in, or threaten another. The postconviction court denied Sandstrom's petition, finding that the only rational explanation for why Sandstrom returned to the property was to disturb his neighbor. This appeal follows.

DECISION

Sandstrom argues that the evidence was insufficient to sustain his conviction of trespassing because he did not intend to disturb his neighbor. Under Minnesota law, a person is guilty of misdemeanor trespass if the person intentionally "returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return." Minn. Stat. § 609.605, subd. 1(b)(7).

In reviewing whether there is sufficient evidence 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 review the sufficiency of the evidence in a bench trial in the same manner as a jury trial. *State v. Lehtikainen*, 463 N.W.2d 770, 772 (Minn. App. 1990). Upon review, we assume that the fact-finder disbelieved any evidence contrary to the verdict. *State v. Fox*, 868 N.W.2d 206, 223 (Minn. 2015). "[W]e 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." *Ortega*, 813 N.W.2d at 100.

Sandstrom and the state agree that the circumstantial-evidence analysis is appropriate in determining whether the element of intent was proved beyond a reasonable

doubt. Intent is a state of mind that “is generally proved by inferences drawn from a person’s words or actions in light of all the surrounding circumstances.” *State v. Thompson*, 544 N.W.2d 8, 11 (Minn. 1996). *See also State v. Johnson*, 616 N.W.2d 720, 726 (Minn. 2000) (noting that intent is “proved circumstantially, by inference from words and acts of the actor both before and after the incident”). A jury or fact-finder is permitted to infer that a person intends the natural and probable consequences of his or her actions. *Id.*

When reviewing a conviction based on circumstantial evidence, we apply a two-step analysis. *State v. Harris*, 895 N.W.2d 592, 598–601 (Minn. 2017). The first step is to identify the circumstances proved “by resolving all questions of fact in favor of the [fact-finder’s] verdict,” and in deference to the fact-finder’s credibility determinations. *Id.* at 600. Second, we independently consider the reasonable inferences that can be drawn from the circumstances proved. *Id.* at 600–01. “To sustain the conviction, the circumstances proved, when viewed as a whole, must be consistent with a reasonable inference that the accused is guilty and inconsistent with any rational hypothesis except that of guilt.” *Id.* at 601.

The circumstances proved at trial are the following findings of the district court: (1) a court order prohibited Sandstrom from entering his neighbor’s property; (2) Sandstrom drove his vehicle across his neighbor’s property; (3) the neighbor saw Sandstrom and told him he was not allowed to enter his property; (4) Sandstrom did not indicate to his neighbor that he was looking for his dog or offer any other reason for being on the property; (5) the neighbor called his brother and 911 to request law enforcement assistance; (6) Sandstrom

left the property, but only moments later, returned to the property and began walking up the driveway toward his neighbor's residence; (7) the neighbor's brother arrived on the scene and told Sandstrom to leave; and (8) when a deputy sheriff arrived and questioned Sandstrom about his presence on the property, Sandstrom told him that he had the right to drive on the neighbor's property, calling it a township road.

The next step in our analysis is determining the reasonable inferences that can be drawn from those circumstances. *See id.* Sandstrom argues that the reasonable inference drawn from the circumstances proved is that he returned to the property with the intent to look for his missing dog, not to disturb his neighbor.

Based on the totality of the circumstances, the only reasonable inference we can draw is that Sandstrom, when he first drove on the property, knew that his neighbor would be disturbed. The evidence presented at trial, which the district court found to be credible, was that when Sandstrom first drove on the neighbor's field, he was not looking for his dog. These neighbors had a contentious history that had lasted for more than ten years. Their relationship was so tense that when a problem arose between them, both called law enforcement to intervene. And immediately upon seeing Sandstrom on his property again, the neighbor, obviously disturbed, asked Sandstrom why he was trespassing on his property. Sandstrom, in response to the neighbor's objection and frustration, then left the property, only to return moments later to enter the property again. And, he continued to enter the property even though he was met by the neighbor's brother, who was taking pictures of him as he walked on the neighbor's property. Viewed in light of the history between these neighbors, it is readily apparent that it was no mere coincidence that

Sandstrom trespassed on his neighbor's property. Instead, Sandstrom returned to the property knowing full well that his entrance upon his neighbor's property would disturb his neighbor and perpetuate the drama between them. The district court, as fact-finder, found that these facts supported guilt, and we defer to the district court's credibility determinations. *See Thorson v. Comm'r of Pub. Safety*, 519 N.W.2d 490, 493 (Minn. App. 1994).

Sandstrom does not dispute that he entered the property or even that his entry disturbed his neighbor, but claims that despite the court order prohibiting him from entering the property, he was justified in entering the property to search for his dog. But, we are instructed to reject his self-serving explanation because it is not a circumstance proved. *See State v. Hawes*, 801 N.W.2d 659, 670–71 (Minn. 2011). The only reasonable inference from the circumstances proved is that he went on the property to disturb his neighbor and either used his dog as an excuse or the dog got loose after he went on the property. There was evidence that the dog was with him in his vehicle as he drove over the property. When questioned by police, Sandstrom did not indicate that he was looking for his dog at that time, but instead claimed that he was driving on what he claimed was a public road over his neighbor's land. Sandstrom did tell the police that he was looking for his dog during his second entrance on his neighbor's property. But there is no lost-dog exception to the court order or in caselaw regarding criminal trespass. Instead of directly violating the court order, Sandstrom could have called his neighbor to inquire about his missing dog. He could have waited for the deputy to arrive to help him find his dog. Sandstrom instead chose to violate the court order and trespass on his neighbor's land twice on the same day: first,

when he drove across the property in violation of the 2007 court order and was told by the neighbor to leave, and second, when he, even though he had already been asked to leave by the neighbor, walked up the driveway towards his neighbor's home. Given the totality of these undisputed facts, Sandstrom's contention that he entered his neighbor's property twice in violation of the court order without intending to disturb his neighbor is unreasonable.

Based upon this record, the only reasonable inference is that Sandstrom, knowing their history, knew that the natural and probable consequences of his multiple entries onto his neighbors' property would frustrate or disturb his neighbor, intending the disturbance that ultimately occurred. For that reason, we affirm Sandstrom's conviction for trespass.

Affirmed.

KLAPHAKE, Judge (dissenting)

I respectfully dissent. Based on the circumstantial-evidence analysis, another reasonable inference inconsistent with that of guilt can be drawn—that Sandstrom was on his neighbor’s property to look for his missing dog.

Sandstrom never disputed that he was on his neighbor’s property. He instead disputed that there was sufficient evidence under Minn. Stat. § 609.605, subd. 1(b)(7) (2014), that he returned to his neighbor’s property with the intent to abuse, disturb, cause distress, or threaten another. Upon reviewing the circumstances proved, another reasonable inference can be drawn that is inconsistent with a malicious intent. We can reasonably conclude that Sandstrom’s intent was to find his missing dog. The circumstances proved reflect this reasonable inference. Even the property owner testified that Sandstrom probably returned to his land with the intent to find the missing dog. Sandstrom enlisted the help of law enforcement by calling 911 to report that his dog was missing. And Sandstrom’s dog was actually found on his neighbor’s property, tied up in the garage.

The district court concluded that Sandstrom must have intended to disturb his neighbor, as no other plausible reason existed for his presence on the property. The majority agrees. But under the circumstantial-evidence analysis, the circumstances proved must be consistent with the hypothesis that Sandstrom is guilty *and* inconsistent with any other rational hypothesis. *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). A rational hypothesis other than guilt is apparent here: Sandstrom exclusively intended to look for his missing dog. Even if Sandstrom simultaneously intended to look for his dog

and disturb his neighbor, the heightened-scrutiny circumstantial-evidence analysis would preclude sustaining his conviction. *See id.* (“A conviction based on circumstantial evidence, however, warrants heightened scrutiny.”). If we can reasonably infer that Sandstrom was looking for his dog, this intent alone is a hypothesis inconsistent with guilt and we must reverse.

Because it is reasonable to infer, under the circumstantial-evidence analysis, that Sandstrom entered his neighbor’s land to look for his missing dog, I would reverse Sandstrom’s conviction.