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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1829**

State of Minnesota,
Respondent,

vs.

David James Fineday,
Appellant.

**Filed September 9, 2019
Affirmed
Smith, Tracy M., Judge**

Cass County District Court
File No. 11-CR-17-2235

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

Benjamin T. Lindstrom, Cass County Attorney, Jeanine R. Brand, Assistant County Attorney, Walker, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Smith, Tracy M., Judge; and Florey, Judge.

UNPUBLISHED OPINION

SMITH, TRACY M., Judge

In this appeal from his conviction for gross-misdemeanor domestic assault, appellant David Fineday argues that his conviction was based solely on the uncorroborated

testimony of a biased, uncreditable witness and that this testimony is insufficient to sustain his conviction. Because a jury could reasonably conclude that Fineday was guilty of gross-misdemeanor domestic assault, we affirm.

FACTS

Following an incident involving C.G., the state charged Fineday with domestic assault. According to C.G.'s testimony at trial, Fineday and C.G. had been dating off and on for about five years. The couple had lived together for a brief period of time and were sexually involved. On the morning of the incident, the couple was going through one of their rough patches and they agreed to meet to work things out.

Fineday picked C.G. up in his van. She was wearing her pajamas, so she brought her work uniform and shoes along, placing them in the back of the van. As Fineday was driving, C.G. found another woman's sweater in the van and decided that the relationship was not going to work. She then asked Fineday to drive her home. Fineday stopped the van, and C.G. went to the back of the van to get her work uniform and shoes.

When C.G. returned to the front of the van, Fineday grabbed the back of her pajamas and began assaulting her. He started "banging" her around and punching her. At some point, Fineday started driving again but he continued to beat C.G. He grabbed her hair, hit her head against the dashboard, held her down to the floor, and told her that he was going to "beat [her] and leave [her] in the woods." As the van approached a local casino, C.G. knew that Fineday would have to slow down to take a turn. Seizing the opportunity to escape, she threw her belongings out the window, opened up the door, and jumped out of the moving vehicle. As she did, Fineday grabbed her by her pajamas and tried to pull her

back into the van. With Fineday holding on to her, C.G. was dragged alongside the van. She sustained injuries to her legs and feet.

C.G. managed to slip out of Fineday's grasp, and she ran into the casino. The front desk called the police, and the responding officer took C.G.'s statement and photographs of her injuries. The state introduced the recorded statement and photos at trial. The jury returned a guilty verdict.

This appeal follows.

D E C I S I O N

Fineday argues that the state failed to present sufficient evidence to prove beyond a reasonable doubt that he committed domestic assault. "In considering a claim of insufficient evidence, the record is reviewed to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach their verdict." *State v. Olhausen*, 681 N.W.2d 21, 25 (Minn. 2004). "We assume that the jury believed the state's witnesses and disbelieved any evidence to the contrary." *Id.* If the jury, while acting with proper regard for the presumption of innocence and for the requirement of proof beyond a reasonable doubt, could reasonably conclude that Fineday was guilty, then the evidence is sufficient to support the conviction. *See id.* at 25-26.

The jury found Fineday guilty of gross-misdemeanor domestic assault under Minn. Stat. § 609.2242, subd. 2 (2016). To convict Fineday of this charge, the state needed to prove that (1) Fineday intentionally inflicted or attempted to inflict bodily harm upon C.G.

and (2) C.G. was Fineday's family or household member.¹ Minn. Stat. § 609.2242, subds. 1(2), 2 (2016). "Family or household members" is defined, in part, as "persons involved in a significant romantic or sexual relationship." Minn. Stat. §§ 518B.01, subd. 2(b)(7), 609.2242, subd. 1 (2016).

When the evidence is reviewed in the light most favorable to the conviction, the record is sufficient to have allowed the jurors to find Fineday guilty of gross-misdemeanor domestic assault. C.G. testified that Fineday punched her, grabbed her by the hair, banged her head against the dashboard, and held her to the floor. She also testified as to her injuries as a result of the assault. This testimony alone is sufficient to allow a jury to reasonably conclude that Fineday intentionally inflicted or attempted to inflict bodily harm upon C.G. *See State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) ("[A] conviction can rest on the uncorroborated testimony of a single credible witness." (quotation omitted)). But, in addition, the state presented photos of the injuries C.G. sustained to her legs and feet, which corroborated her story. Also, because Fineday admitted on cross-examination that he and C.G. had a significant romantic relationship, the jury could also reasonably conclude that C.G. was Fineday's family or household member.

Fineday's challenge is based on his argument that C.G.'s testimony was not credible because she had a motive to lie and her story was not believable. Specifically, he argues that C.G.'s testimony was "highly exaggerated from her initial statement to the police" and

¹ A gross-misdemeanor domestic assault charge also requires that the perpetrator commit the act within "ten years of a previous qualified domestic violence-related offense conviction or an adjudication of delinquency." Minn. Stat. § 609.2242, subd. 2. Fineday stipulated to this element at trial.

described acts that seem physically impossible. But the jury was in the best position to determine credibility and weigh the evidence. *See State v. Hanson*, 800 N.W.2d 618, 622 (Minn. 2011) (recognizing that juries are “generally in the best position to weigh the credibility of the evidence and thus determine which witnesses to believe and how much weight to give their testimony” (quotation omitted)). The jury heard C.G.’s testimony and the recorded statement that she gave to the police. The jury also listened to Fineday’s testimony, the cross-examination of C.G., and Fineday’s closing argument that his version of events was more reasonable than C.G.’s. The jury made its determination, and this court may not reweigh the witness’s credibility. *Cf. State v. Reichenberger*, 182 N.W.2d 692, 695 (Minn. 1970) (“[W]eighing the credibility of a complaining witness who had given conflicting stories is a function for the jury.”).

The Minnesota Supreme Court has recognized that, in limited circumstances, the interests of justice may require reversal of a conviction based on uncorroborated testimony when the credibility of that single witness is highly questionable. *State v. Langteau*, 268 N.W.2d 76, 77 (Minn. 1978) (holding that, although it was possible to justify the jury’s verdict, “a careful consideration of the record” warranted a new trial “in the interests of justice”); *see, e.g., State v. Huss*, 506 N.W.2d 290, 293 (Minn. 1993) (determining that the testimony of the alleged victim of child abuse was insufficient because there was expert testimony that the victim had been exposed to highly suggestive material and her testimony was not sufficiently credible). This remedy, however, is for extreme cases, and Fineday has not shown that C.G.’s credibility was so suspect as to warrant such relief.

Affirmed.