

STATE OF MINNESOTA

IN SUPREME COURT

A19-0451

Court of Appeals

Gildea, C.J.

Took no part, Chutich, J.

State of Minnesota,

Respondent,

vs.

Filed: May 5, 2021

Office of Appellate Courts

Carrie Lynn Friese,

Appellant.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Mark A Ostrem, Olmsted County Attorney, Jennifer D. Plante, Senior Assistant Olmsted County Attorney, Rochester, Minnesota, for respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Christopher L. Mishek, Assistant State Public Defender, Saint Paul, Minnesota, for appellant.

S Y L L A B U S

1. A child is “exposed to . . . methamphetamine” under Minn. Stat. § 152.137, subd. 2(b) (2020), when the child is subjected to risk of harm from the methamphetamine.

2. The State presented sufficient evidence to support appellant’s conviction for exposing a child to methamphetamine under Minn. Stat. § 152.137, subd. 2(b).

Affirmed.

OPINION

GILDEA, Chief Justice.

This case asks us to define when a child is “exposed to” methamphetamine under Minn. Stat. § 152.137, subd. 2(b) (2020). Appellant Carrie Lynn Frieese was convicted of exposing her child, T.D., to methamphetamine in violation of Minn. Stat. § 152.137, subd. 2(b), when her child slept on a mattress behind which police found a small purse containing methamphetamine. The court of appeals affirmed the conviction. Because we conclude that a child is exposed to methamphetamine when the child is subjected to a risk of harm from the methamphetamine, and because the State’s evidence was sufficient to prove that T.D. was subjected to such risk, we affirm.

FACTS

In the late morning of October 19, 2017, Rochester police executed a search warrant at a residence located in Rochester. Frieese had been staying at this residence at the invitation of the homeowner’s then-husband since July 2017. Police found Frieese and her 9-year-old son, T.D., in an upstairs bedroom. T.D. stayed with Frieese in that bedroom the previous night. Between the mattress on the floor and a wall in the bedroom, officers found a small purse with a cartoon character on it. Inside the purse, police found two baggies containing a white powdery substance that police later determined was methamphetamine.

The State charged Frieese with possession of a controlled substance in the fifth degree under Minn. Stat. § 152.025, subd. 2(1) (2020), storage of methamphetamine in the presence of a child under Minn. Stat. § 152.137, subd. 2(a)(2), and child endangerment under Minn. Stat. § 609.378, subd. 1(b)(1) (2020). Frieese pled not guilty to all counts.

Shortly before the trial, the State amended the second count to charge Frieese under Minn. Stat. § 152.137, subd. 2(b), which prohibits knowingly exposing a child to methamphetamine.

At trial, Sergeant John Fishbaugher testified that he took part in the search. He followed another officer upstairs and walked into the west bedroom, where he found “a small black Coach purse” with a “Snoopy” cartoon on one side of the purse. Inside, he found baggies of what he believed to be methamphetamine. The purse, the baggies, and pictures that Fishbaugher took of the scene were introduced into evidence.

In particular, one picture showed the corner of a mattress immediately adjacent to a wall. On that corner, the purse and two baggies of a white substance were displayed. The floor immediately adjacent to the corner of the bed was also visible. A bag of Tootsie Rolls, a soda bottle, and a 32-ounce plastic soda cup were shown on the floor next to the mattress. Fishbaugher, referencing the picture, stated that he found the purse “tucked between the wall and this mattress.” He also indicated that the purse was covered by the pillows on the mattress. Fishbaugher testified that the purse was easily accessible to a child sleeping on the bed.

Investigator Caleb Tesdahl, the lead investigator for the search, also testified. He confirmed that Frieese and T.D. were found in the upstairs bedroom and that substances found in that room tested positive for methamphetamine at the state crime laboratory. Frieese stipulated to the positive test results, and the results were admitted into evidence.

Friese was the only defense witness. She admitted that T.D. stayed in the house the night before the search.¹ Friese also conceded that she had purchased Tootsie Rolls and soda for herself and T.D. During closing argument, the prosecutor argued that these snacks were found immediately next to the location where the purse was found, as shown by the pictures admitted into evidence.

The jury found Friese guilty of all three counts, but the district court entered judgment of conviction only on count two, the methamphetamine-exposure charge. The district court stayed execution of a year-and-a-day prison term and placed Friese on probation for 5 years.

Friese appealed, arguing that the evidence was insufficient to support her conviction. *State v. Friese*, 943 N.W.2d 193, 197 (Minn. App. 2020). She asserted that Minn. Stat. § 152.137, subd. 2(b), which prohibits a person from “knowingly caus[ing] or permit[ing] a child . . . to inhale, be exposed to, have contact with, or ingest methamphetamine,” requires that the child be “physically subjected” to methamphetamine. 943 N.W.2d at 197. And because the evidence introduced at trial showed only that T.D. slept near a purse containing methamphetamine, T.D. was not “exposed to” methamphetamine under the meaning of the statute. *Id.* The court of appeals disagreed. *Id.* at 198. The court considered dictionary definitions of the word “expose,” and determined that the statute requires proof “that the defendant knowingly caused or

¹ Friese also testified about facts relevant to whether she knew, or at least had reason to know, that there was methamphetamine in the bedroom. Friese does not argue before us that the evidence was insufficient to prove the state of mind the statute requires. Accordingly, we do not discuss this issue further.

permitted methamphetamine to be accessible to a child or subjected a child to methamphetamine.” *Id.*

The court of appeals concluded that the jury could reasonably have found that Frieese exposed T.D. to methamphetamine because “she caused or permitted the methamphetamine in the purse to be accessible to her son or that Frieese subjected her son to methamphetamine by sleeping in the same room as methamphetamine in a nearby handbag.” *Id.* at 202–03.

We granted Frieese’s petition for review.

ANALYSIS

Frieese makes two arguments on appeal. She argues that to prove exposure under Minn. Stat. § 152.137, subd. 2(b), the State must prove that the child was physically subjected to the methamphetamine, meaning that the methamphetamine was either on or inside the body of the child. Frieese also argues that under her interpretation of the statute, the evidence at trial was insufficient to support her conviction. We first address the language of the statute and then turn to the sufficiency of the evidence.

I.

We consider first the interpretation of subdivision 2(b) of section 152.137. The statute provides:

No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Minn. Stat. § 152.137, subd. 2(b).

We review questions of statutory interpretation de novo. *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020). The “objective in statutory interpretation is to effectuate the intention of the legislature.” *State v. Stay*, 935 N.W.2d 428, 430 (Minn. 2019) (citation omitted) (internal quotation marks omitted). We begin by determining whether the statute’s language is ambiguous. *Id.* Ambiguity arises only if the statute “is subject to more than one reasonable interpretation.” *Townsend*, 941 N.W.2d at 110. If the language is plain and unambiguous, we do not engage in further construction. *Id.* We also read the statute as a whole, see *State v. Scovel*, 916 N.W.2d 550, 555 (Minn. 2018) (discussing the whole-statute canon), and favor an interpretation that gives “each word or phrase in a statute a distinct, not an identical, meaning.” *State v. Thonesavanh*, 904 N.W.2d 432, 437 (Minn. 2017) (discussing the canon against surplusage).

Section 152.137 does not define “exposed.” When terms are not defined by the statute, we may look to appropriate dictionary definitions. See *State v. Prigge*, 907 N.W.2d 635, 638 (Minn. 2018). The parties offer various dictionary definitions. The State cites *Black’s Law Dictionary* to argue that a child is “exposed” to a dangerous item, such as methamphetamine, when a child is permitted to be near a dangerous item. See *Expose*, *Black’s Law Dictionary* (6th ed. 1990).²

² The State’s definition is derived from *Black’s Law Dictionary*, a source we have traditionally relied upon when the disputed statutory language has acquired a legal or technical meaning. See, e.g., *State v. Rick*, 835 N.W.2d 478, 484 (Minn. 2013), *abrogated on other grounds*, *State v. Thonesavanh*, 904 N.W.2d 432, 440 (Minn. 2017); Minn. Stat. § 645.08(1) (2020) (“[T]echnical words and phrases and such others as have acquired a special meaning . . . are construed according to such special meaning or their definition.”). The State does not contend that “expose” is a legal or technical term; quite the contrary, it

For her part, Friese argues that section 152.137 requires the State to prove that a child was physically subjected to methamphetamine, meaning that the methamphetamine was either on or inside the body of a child. She supports her argument by pointing us to a definition of the word “exposed” as “to subject or allow to be subject to an action, influence, or condition.” *The American Heritage Dictionary of the English Language* 625 (5th ed. 2011). She also relies on the definition of the word “subject,” which is “to cause to experience, undergo, or be acted upon.” *Id.* at 1735. Putting these definitions together, Friese reasons that “expose” means to “subject” someone to a condition—in this case, methamphetamine—and “subject” implies that the person was actually caused to undergo a certain experience. Therefore, she contends a child is exposed to methamphetamine only when the child is actually physically subjected to methamphetamine.

The principal definition offered by Friese, however, is not reasonable. To interpret section 152.137 as Friese does—a child is exposed only when physically subjected to methamphetamine—violates the canon against surplusage.

Under the canon against surplusage, we favor an interpretation that gives “each word or phrase in a statute a distinct, not an identical, meaning.” *Thonesavanh*, 904 N.W.2d at 437. By interpreting “be exposed to” as requiring some sort of physical touch, Friese essentially reads out the other verbs in section 152.137. This is so because the verbs “inhale, . . . have contact with, or ingest” already describe the various ways in which a child could be physically subjected to methamphetamine. Minn. Stat. § 152.137,

repeatedly states that the meaning of “exposed” in section 152.137 is consistent with its ordinary usage. We therefore decline to rely specifically on the definition in *Black’s*.

subd. 2(b). Interpreting “expose” to mean “physically subjected to” renders each of the other verbs in the statute mere surplusage.

In urging us to conclude otherwise, Frieze argues that a child could be physically subjected to methamphetamine in ways that are not contemplated by the other verbs—“inhale, . . . have contact with, or ingest.” Frieze posits that the absorption of methamphetamine through the skin would be exposure but would not represent any of the other verbs in section 152.137. We disagree because, in order to absorb methamphetamine through the skin, the child would need to “have contact with” the methamphetamine. That is, there would need to be a “union” between the surface of the child’s skin and the surface of the methamphetamine. See *Merriam-Webster’s Collegiate Dictionary* 248 (10th ed. 2001). In this example, Frieze interprets “be exposed to” and “have contact with” to mean the same thing. Frieze does not provide an example, and we are unable to envision one, in which a child would be physically subjected to methamphetamine in a way that is not described by the verbs “inhale, . . . have contact with, or ingest.” The canon against surplusage therefore makes Frieze’s interpretation unreasonable.

But, Frieze contends, we should not apply the canon against surplusage here. Specifically, Frieze argues that the canon against surplusage does not apply because the list of verbs in section 152.137 is a “synonym string,” in which “various words with the same or overlapping meaning are strung together.” Bryan A. Garner, *Garner on Language and Writing* 313 (2009); Antonin Scalia & Bryan A. Garner, *Reading Law* 179 (2012).³

³ A “synonym string,” also known as a doublet or a triplet, describes a “lawyerly iteration” in which legal drafters “‘do repeat themselves and do include words that add

We considered a similar argument in *State v. Nelson*, 842 N.W.2d 433, 439–40 (Minn. 2014), *abrogated by statute*, Act of May 13, 2014, Minn. Laws 2014, ch. 242, § 3, 804, 804 (codified as amended at Minn. Stat. § 609.375 (2020)). In that case, we rejected the dissent’s argument that the phrase “care and support” was a legal doublet. *Id.* We reasoned that a phrase can be a doublet only when one of the words in the phrase is “meaningless” in context. *Id.* And because “care” and “support” both had different, contextually-appropriate meanings in the context of the statute, the phrase “care and support” was not a doublet. *Id.*

The same is true here. The verbs listed in subdivision 2(b) of section 152.137—contact, ingest, and inhale—are not synonyms; they each have different meanings. “Contact” is defined as a “union or junction of two surfaces,” “ingest” is defined as “to take in for or as if for digestion,” and “inhale” is defined as “to draw in by breathing.” *Merriam-Webster’s Collegiate Dictionary* 248, 599, 600 (10th ed. 2001). Each of these definitions are different and contextually appropriate. And consistent with our analysis in *Nelson*, 842 N.W.2d at 439, the definition of “expose” that we adopt gives that term a meaning that is also contextually appropriate and different from these other definitions. Based on this analysis, the list of verbs in section 152.137 is not a synonym string, and the

nothing of substance, either out of a flawed sense of style or to engage in the ill-conceived but lamentably common belt-and-suspenders approach.’ ” *State v. Nelson*, 842 N.W.2d 433, 448–49 (Minn. 2014) (Dietzen, J., dissenting) (quoting *Reading Law* at 176–77). For example, lawyers and lawmakers have a tendency of saying things like “null and void,” “execute and perform,” and “rest, residue, and remainder.” In such situations, the canon against surplusage is not controlling. *Id.*

canon against surplusage applies. Because Frieze’s proposed interpretation runs afoul of that canon, her interpretation is not reasonable.

In contrast to Frieze’s principal interpretation, we adopt an alternative definition of “expose” that is also suggested by Frieze—to “subject to risk from a harmful action or condition,” *Merriam-Webster’s Collegiate Dictionary* 409 (10th ed. 2001). This definition, which focuses on risk of harm, is consistent with other dictionaries. See *Webster’s Third New International Dictionary, Unabridged* 802 (2002) (“expose” means to “lay open (as to attack, danger, trial, or test): make accessible to something that may prove detrimental”). It is also consistent with the canon against surplusage (as explained above) as well as the whole-statute canon and the word-association canon, two canons on which Frieze relies in support of her interpretation.

The whole-statute canon is “the fundamental rule of statutory construction that a statute is to be read and construed as a whole so as to harmonize and give effect to all its parts.” *Van Asperen v. Darling Olds, Inc.*, 93 N.W.2d 690, 698 (Minn. 1958). Applying that canon, Frieze asserts that the meaning of “be exposed to,” found in subdivision 2(b) of section 152.137, is informed by subdivision 2(a) of the same statute.

Subdivision 2(a) reads:

No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult . . . :

- (1) manufacturing or attempting to manufacture methamphetamine;
- (2) storing any chemical substance;
- (3) storing any methamphetamine waste products; or
- (4) storing any methamphetamine paraphernalia.

Minn. Stat. § 152.137, subd. 2(a).

The terms “chemical substance,” “methamphetamine paraphernalia,” and “methamphetamine waste products,” are defined in subdivision 1. Essentially, these terms encompass the equipment, products, materials, and substances that are used to produce or consume methamphetamine, and include the byproducts that are created as a result of manufacturing methamphetamine. See Minn. Stat. § 152.137, subd. 1 (2020). Notably, subdivision 2(a) does not refer to the storage of methamphetamine itself.

Because subdivision 2(a) prohibits the storage of methamphetamine-related materials—but not methamphetamine itself—near children, Friese persuasively argues that the whole-statute canon suggests that the phrase “be exposed to . . . methamphetamine,” found in subdivision 2(b), means something more than the mere storage of methamphetamine in the presence a child.

We agree that the whole-statute canon suggests that exposure means something more than the storage of methamphetamine in the presence of a child, but we disagree that the “something more” must be physical touch because, as explained above, that reading violates the canon against surplusage.

Instead, the “something more” is the *manner* in which the methamphetamine is stored. That is, a defendant would *not* be criminally responsible under subdivision 2(b) for simply storing methamphetamine near a child but *would* be so responsible for storing methamphetamine near a child in a manner that puts a child at risk of harm from the methamphetamine. For instance, if a defendant stored methamphetamine in a locked container or in a place that is well-hidden or out of reach, the defendant might not be criminally liable under subdivision 2(b) depending on whether, based on the totality of the

circumstances, the child was subjected to risk of harm from the methamphetamine. Our interpretation therefore gives effect to the Legislature’s omission of methamphetamine itself from the list of substances in subdivision 2(a) because a defendant would not, in all instances, be liable for merely storing methamphetamine in a place where a child could be present.

Finally, Friese urges us to consider the word-association canon. Under this canon, “the meaning of doubtful words in a legislative act may be determined by reference to their association with other associated words and phrases.” *State v. Suess*, 52 N.W.2d 409, 415 (Minn. 1952). Namely, when words “are associated in a context suggesting that the words have something in common, they should be assigned a permissible meaning that makes them similar. The canon especially holds that words grouped in a list should be given related meanings.” *Reading Law* at 195 (internal quotation marks omitted). The meaning of a word in a list should be informed by “the least common denominator” between all the words used in the list. *Id.* at 196.

The court of appeals determined that the word-association canon does not apply to unambiguous statutes. *Friese*, 943 N.W.2d at 199–200.⁴ We need not resolve this issue

⁴ The court of appeals relied on our precedent in *Suess* to conclude that the word-association canon applies only after a finding of ambiguity. 52 N.W.2d at 415 (“*In case the intent of the legislature is not clear*, the meaning of doubtful words in a legislative act may be determined by reference to their association with other associated words and phrases.” (emphasis added)). Our other cases on the word-association canon, however, do not clearly support the court of appeals’ understanding of *Suess*. See *Rick*, 835 N.W.2d at 484-85 (applying the word-association canon to determine that a statute was ambiguous); *Wong v. Am. Fam. Mut. Ins. Co.*, 576 N.W.2d 742, 745 (Minn. 1998) (applying the word-association canon to an otherwise unambiguous statute). In short, our precedent on this point is less than certain.

because application of this canon to section 152.137 does not change our analysis. We will therefore assume without deciding, for purposes of this appeal, that the word-association canon applies before a determination of ambiguity.

As discussed above, the phrase “be exposed to” is found in a list of verbs: “inhale, be exposed to, have contact with, or ingest.” Minn. Stat. § 152.137, subd. 2(b). As demonstrated by the definitions discussed above, a person having contact with, ingesting, or inhaling methamphetamine would necessarily be physically subjected to it. Friese contends that the word-association canon therefore indicates that the phrase “be exposed to” requires some sort of physical touch as well. We disagree.

The word-association canon suggests that the verbs in subdivision 2(b) of section 152.137—“inhale, be exposed to, have contact with, or ingest”—contemplate the risks associated with methamphetamine. This is so because children can be harmed by merely touching methamphetamine, and they could also be harmed, obviously, when the methamphetamine is ingested or inhaled.⁵ Defining “exposed” as “subjected to risk from a harmful action or condition” is thus consistent with the word-association canon because

⁵ As the court of appeals noted, the ill effects of causing or permitting a child to be physically exposed to methamphetamine are well established in medical and legal research. See, e.g., Michael T. Flannery et al., *The Use of Hair Analysis to Test Children For Methamphetamine*, 10 Mich. St. U.J. Med. & L. 143, 149-50 (2006); see also *id.* at 171 (children may be “likely to put methamphetamine-contaminated fingers or toys in their mouths”); *id.* at 175–76 (children exposed to methamphetamine use and manufacture can experience nausea, vomiting, increased irritability, respiratory irritation, and other medical issues); *id.* at 178–79 (external exposure to methamphetamine occurs, for example, because small children “may absorb toxic chemicals through their skin” and “the effects of inhalation of toxic chemicals could be more significant in small children”).

the other verbs in the statute detail the ways in which a child can be harmed by the named harmful condition—specifically, methamphetamine.

Based on our analysis, we conclude that section 152.137 unambiguously means that a child is exposed to methamphetamine when the child is subjected to risk of harm from the methamphetamine.⁶

II.

Having concluded that the State must prove that the child was subjected to risk of harm from the methamphetamine to sustain a conviction under section 152.137 subd. 2(b), we now turn to Frieese’s challenge to the sufficiency of the evidence supporting her conviction.⁷ On a challenge to the sufficiency of the evidence, we conduct “a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). We 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). We affirm if, “based on the evidence

⁶ Both parties urge us to consider post-ambiguity canons to interpret section 152.137. Frieese points us to legislative history, the consequences of the parties’ interpretations, and the rule of lenity. The State relies on the related-statutes canon and the consequences of the parties’ interpretations. Because we conclude that section 152.137 is unambiguous, we do not address these arguments. See *Townsend*, 941 N.W.2d at 110.

⁷ The parties agree with the court of appeals’ application of the direct-evidence standard of review. *Frieese*, 943 N.W.2d at 202 (citing *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016)).

contained in the record, the [jury] could reasonably have found [the] defendant guilty of the crime charged.” *State v. Cox*, 278 N.W.2d 62, 65 (Minn. 1979).

When the evidence in this case is viewed in a light most favorable to the verdict, the jury could have reasonably concluded that Frieese subjected T.D. to risk of harm from the methamphetamine. Sergeant Fishbaugh testified that he took pictures of where he found the purse, that he found baggies of what appeared to be methamphetamine inside that purse, and that he thought a child could easily access the purse if the child slept on the bed. The State submitted test results confirming that the purse contained methamphetamine, and Frieese stipulated to these results.

The methamphetamine in Frieese’s room was not stored in a locked container or in a place that was out of reach to T.D. The purse of methamphetamine was unlocked, was emblazoned with a cartoon character, and was within the immediate physical proximity of where T.D. slept all night. The purse was close to a bag of Tootsie Rolls, and the jury heard Frieese testify that she had purchased Tootsie Rolls for T.D. Moreover, the jury knew that T.D. was 9 years old.

Based on T.D.’s young age, the proximity and accessibility of the purse, the cartoon character featured on it, its location next to a bag of candy, and the length of time T.D. spent near it, the jury could reasonably have concluded that Frieese subjected T.D. to risk of harm from the methamphetamine in the purse. We therefore hold that the evidence is sufficient to sustain Frieese’s conviction under Minn. Stat. § 152.137, subd. 2(b).

CONCLUSION

For the reasons discussed above, we affirm the decision of the court of appeals.

Affirmed.

CHUTICH, J., took no part in the consideration or decision of this case.