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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0795**

State of Minnesota,
Respondent,

vs.

Jeremiah Joel Bauer,
Appellant.

**Filed April 27, 2020
Affirmed
Smith, John, Judge***

Steele County District Court
File No. 74-CR-17-2359

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, St. Paul, Minnesota; and

Daniel A. McIntosh, Steele County Attorney, Owatonna, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Florey, Judge; and Smith, John, Judge.

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

UNPUBLISHED OPINION

SMITH, JOHN, Judge

We affirm appellant's convictions for second-degree attempted murder, kidnapping, and first-degree assault because the evidence in the record supports the district court's findings of fact and conclusions of law rejecting appellant's mental-illness defense.

FACTS

Respondent State of Minnesota charged appellant Jeremiah Joel Bauer with second-degree attempted murder, kidnapping (to commit great bodily harm or terrorize), attempted first-degree assault (great bodily harm), and second-degree assault (dangerous weapon) against M.L. The state amended the complaint, adding a charge of first-degree assault (use of deadly force against a peace officer). The charges stemmed from a December 2017 incident during which Bauer attacked M.L. and assaulted a responding police officer. Bauer asserted the defense of mental illness, waived his right to a jury trial, and agreed to a bifurcated court trial to address his guilt and his mental-illness defense.

The district court held a bifurcated trial in October 2018. Based on the evidence and the testimony presented during the guilt phase of the trial, the district court found that during the early morning hours on December 25, 2017, M.L. went to the home that she shared with Bauer. When she arrived, Bauer started attacking her and hitting her with a machete. Bauer "head butted" M.L., choked her with his hands and with his forearm and bicep, hit her in her breasts and stomach, tried to throw her down a flight of stairs, pulled the machete near her neck, and stabbed her. Bauer would not let M.L. leave, told her that she was going to die, and continued attacking her until police arrived. M.L. sustained

multiple bruises, scrapes, and puncture wounds from the attack. When police arrived and tried to take the machete from Bauer, he thrust it toward a responding officer's head and neck. Officers stopped the assault by taking the machete from Bauer.

The district court found that the state had proven all the elements of the charged offenses beyond a reasonable doubt and the case proceeded to the mental-illness phase. During this second phase, the district court heard testimony from two psychologists, Bauer's mother, and medical personnel who interacted with Bauer after the incident.

Bauer's witness, Dr. George Komaridis, interviewed Bauer and administered various psychological tests. Based on the interview and assessments, Dr. Komaridis opined that Bauer had a serious and persistent mental illness, "technically and formally described as posttraumatic stress disorder [(PTSD)] . . . complex type with dissociative symptoms." He indicated that due to Bauer's complex PTSD, at the time of the incident, Bauer could have experienced a dissociative event, which is a psychological condition that typically occurs under high-stress circumstances where a person cannot recall what happened during a time period. He concluded that due to Bauer's mental illness, Bauer "was not competent to reason properly and to understand rightfulness from wrongfulness at the time of his offense." But on cross-examination, Dr. Komaridis explained that because Bauer had been drinking before he committed the offenses, he could not rule out an alcohol effect on Bauer's memory or a selective lack of memory.

The state's witness, Dr. Steven Norton, testified that he interviewed Bauer and reviewed police reports, the criminal complaint, and Dr. Komaridis's psychological exam, but did not administer any psychological tests to Bauer. Bauer gave varying versions of

the incident to Dr. Norton and Dr. Norton concluded that, assuming Bauer's claimed memory losses were true, Bauer's alcohol abuse was the most likely explanation. Dr. Norton diagnosed Bauer with alcohol-dependence disorder and antisocial-personality disorder, and concluded that there was no evidence Bauer was suffering "under a significant defect of reason" at the time of the offense.

Following the second phase of the trial, the district court issued its findings of fact, conclusions of law, and order regarding Bauer's mental-illness defense. The district court determined that Dr. Komaridis's diagnosis of PTSD was "not credible," and explained that "Dr. Komaridis ultimately opined that a combination of factors contributed to [Bauer's] actions," including "grief over the loss of his father, trauma history, a bad relationship, and use of alcohol." The district court found that Dr. Norton was a credible witness and noted that Dr. Norton "found no evidence of overt symptoms of mental illness in these interactions" and "did not believe there was a psychological basis to diagnose [Bauer] with a major mental illness or to assign the label of 'dissociative features' to explain [Bauer's] purported memory loss." The district court rejected Bauer's mental-illness defense, and concluded that Bauer was aware of his actions when he attacked M.L. and assaulted the responding police officer, and therefore knew the nature of his acts and that they were wrong.

The district court entered judgments of conviction for attempted second-degree murder, kidnapping, and first-degree assault (use of deadly force against a peace officer). The district court sentenced Bauer to a term of imprisonment of 183 months for the second-degree attempted-murder conviction and a concurrent term of imprisonment of 122 months

for the kidnapping conviction. The district court also sentenced Bauer to a term of imprisonment of 120 months for the first-degree assault conviction, to be served consecutive to the second-degree attempted-murder sentence.

DECISION

“A criminal defendant is presumed sane and responsible for his acts,” and “bears the burden of proving a mental-illness defense by a preponderance of the evidence.” *State v. Roberts*, 876 N.W.2d 863, 867 (Minn. 2016); see Minn. Stat. § 611.025 (2016) (“[A] person is presumed to be responsible for the person’s acts and bears the burden of rebutting such presumption.”). To prove a defense by a preponderance of the evidence a defendant need only establish that “it is more likely that the claim . . . is true than that it is not true.” *State v. Wahlberg*, 296 N.W.2d 408, 418 (Minn. 1980). The mental-illness defense is a question of fact to be resolved by the fact-finder and “a finding that a defendant failed to meet his or her burden to prove a mental-illness defense should not be disturbed unless it is clearly erroneous.” *Roberts*, 876 N.W.2d at 868. “A factual finding is clearly erroneous if it does not have evidentiary support in the record or if it was induced by an erroneous view of the law.” *Id.*

Under Minn. Stat. § 611.026 (2016), “[n]o person having a mental illness or cognitive impairment so as to be incapable of understanding the proceedings or making a defense shall be tried, sentenced, or punished for any crime.” But a person “shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act the person was laboring under such a defect of reason, from one of these causes, as not to know the nature of the act, or that it was wrong.” Minn. Stat. § 611.026.

A criminal defendant “must know that his act was wrong in a moral sense and not merely know that he has violated a statute.” *Roberts*, 876 N.W.2d at 868 (quotation omitted).

This court conducts “a rigorous review of the record to determine whether the evidence, direct and circumstantial, viewed most favorably to support a finding of guilt, was sufficient to permit the [district] court to reach its conclusion.” *State v. Odell*, 676 N.W.2d 646, 648 (Minn. 2004) (quotations omitted). This court gives “broad deference” to the fact-finder’s determination regarding the appropriate weight to give to various testimony. *State v. Peterson*, 764 N.W.2d 816, 822-23 (Minn. 2009). This court also gives broad deference to the fact-finder in determining the appropriate weight to assign expert psychiatric testimony and the fact-finder “is not bound by expert psychiatric testimony and may reject it entirely, even when the only experts who testify support the defendant’s assertion of a mental-illness defense.” *Roberts*, 876 N.W.2d at 868.

Bauer argues that the district court erred by rejecting his mental-illness defense because the evidence presented during the second phase of the trial was sufficient to prove that he “was so mentally ill at the time he committed the charged offenses that he must be excused from criminal responsibility.”

Central to Bauer’s mental-illness defense were the testimony and reports from Dr. Komaridis and Dr. Norton. Dr. Komaridis, testifying for the defense, opined that Bauer has complex PTSD, which could have caused him to experience a dissociative event on the day of the offense and not recall what happened. Dr. Komaridis indicated that Bauer’s background and the recent loss of his father could have been affecting him that day. He concluded that at the time of the offense, Bauer “was not competent to reason properly” or

“to understand rightfulness from wrongfulness . . . primarily because of such influences as [his] mental illness” and “because of the complication that alcohol might have had in that situation.” On cross-examination, Dr. Komaridis explained that Bauer could have experienced both an alcohol-related blackout and a dissociative episode on the day of the incident. He agreed that because there was evidence Bauer had more than two or three beers that day, he could not rule out an alcohol effect on memory and could not rule out a selective lack of memory because Bauer’s memory loss was self-serving.

Dr. Norton, the state’s witness, opined that Bauer was not suffering from a mental illness at the time of the offense. Dr. Norton interviewed Bauer, and during that interview, Bauer gave varying versions of the incident. At one point, Bauer told Dr. Norton that on the day of the offense, he “had been so drunk that he actually passed out” but later stated that he had “only had two beers.” He told Dr. Norton that he had been sleeping when M.L. came into his bedroom, woke him up, and started verbally harassing him, but later claimed not to recall all the events, and only remembered that when he awoke he was standing over M.L. Dr. Norton explained that Bauer made “a somewhat purposeful choice about what he recalled and described versus what he claimed was memory loss” and concluded that, assuming his claimed memory losses were true, alcohol abuse was the most likely explanation. Dr. Norton diagnosed Bauer with alcohol-dependence disorder and antisocial-personality disorder.

After hearing testimony from both Dr. Komaridis and Dr. Norton regarding whether Bauer was laboring under a defect of reason from mental illness at the time of the offenses, the district court determined that Dr. Komaridis was “not credible” in his diagnosis of

complex PTSD with dissociative symptoms. Although there was some testimony from Dr. Komaridis that Bauer could have been suffering from complex PTSD at the time of the offense, the district court also considered Dr. Komaridis's testimony that a combination of factors contributed to Bauer's actions, and that he could not rule out alcohol as a contributing factor, and Dr. Norton's testimony that there was not a psychological basis to diagnose Bauer with a major mental illness.. By finding that Bauer had not proven his mental-illness defense, the district court made a credibility determination and rejected aspects of Bauer's defense because it was contradicted by other competent evidence—Dr. Norton's testimony. The resulting finding regarding Bauer's mental-illness defense is not clearly erroneous.

Bauer also argues that the district court erred because it “only considered [his] behavior before and after his offenses and completely ignored evidence of his behavior *during* the attacks on [M.L.] and [the responding officer].”

The supreme court has stated that a district court “can look to events surrounding the crime in making a determination about [a defendant's] sanity.” *Davis v. State*, 595 N.W.2d 520, 527 (Minn. 1999); *State v. Wilson*, 539 N.W.2d 241, 245 (Minn. 1995) (“[C]ircumstances surrounding the crime may shed light on [a] defendant's mental state at the time of the [offense].”). In determining whether Bauer was laboring under a defect of reason from mental illness at the time of the offenses, the district court considered that before the offenses, Bauer made threats to kill M.L., and after the offenses, Bauer “did not appear to be heavily intoxicated,” “tried to justify his behavior by untruthfully claiming that he did not know that the police were trying to get into the house,” and “conveniently

claim[ed] blackouts due to intoxication and [exhibited a] selective memor[y] to lessen his culpability.” But the district court considered those circumstances along with the evidence regarding Bauer’s behavior during the offense. The district court described that when Bauer committed the offenses, he “engaged in a calculated and logical course of actions, when viewed in light of his intent to kill [M.L], confine her, and use deadly force against [the responding officer].” The district court properly considered Bauer’s conduct both before and after the offenses along with his conduct at the time of the offenses to determine whether Bauer was laboring under a defect of reason when he committed the offenses.

Finally, Bauer argues that “the district court’s rejection of Dr. Komaridis’s opinion was conclusory and dismissive” because it did not explain why Dr. Komaridis was not a credible expert. But the district court’s order thoroughly explains its reasoning regarding its credibility determinations. The district court found that Dr. Komaridis’s opinion was not credible because “a combination of factors” contributed to Bauer’s actions, Dr. Komaridis could not “rule out alcohol as a contributing factor,” Bauer was “dishonest with Dr. Komaridis about various aspects of his life,” and Bauer’s memory loss “varied over time depending on who [he] was talking to.” Moreover, as the state points out, this court “afford[s] substantial deference to the district court’s evaluation of the evidence of mental illness and the weight to assign to expert psychiatric testimony.” *Roberts*, 876 N.W.2d at 871.

In sum, given the record as a whole and viewing the evidence in the light most favorable to the district court’s finding of guilt, the district court did not err in determining

that Bauer failed to meet his burden of establishing a mental-illness defense by a preponderance of the evidence.

Affirmed.