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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1047**

State of Minnesota,
Respondent,

vs.

David Francis Chamberlain, III,
Appellant.

**Filed April 6, 2020
Affirmed
Worke, Judge**

Anoka County District Court
File No. 02-CR-18-2862

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

Anthony C. Palumbo, Anoka County Attorney, Robert I. Yount, Assistant County Attorney, Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rachel F. Bond, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Worke, Judge; and Florey,
Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges his threats-of-violence conviction, arguing that the state failed to prove that his statements were threats and that, even if his statements were threats, they were mere expressions of transitory anger. We affirm.

FACTS

In the afternoon of April 30, 2018, officers responded to a 911 report of a man holding a “female in a headlock” near an intersection. An officer approached appellant David Francis Chamberlain III, explained the report, and asked if something was going on. Chamberlain responded that he just picked his daughter up from school and that there was no problem. The officer asked Chamberlain’s daughter if there was an issue, and she denied a problem.

Chamberlain then began yelling and walking away. An officer told Chamberlain to stop and that he was going to pat him down for safety reasons because Chamberlain was “acting aggressive and not compliant.” Chamberlain put his hands in the air, and, following a struggle, the officers handcuffed him. The officers told Chamberlain that they were going to detain him in the back of a squad car while they completed their investigation.

In the squad car, Chamberlain kicked the window and door, and yelled to his daughter to not talk to the officers and go home. Chamberlain had to be told several times to stop “spitting in the car.” Because Chamberlain’s behavior was disruptive and thwarted their investigation, the officers arrested Chamberlain for obstruction. The squad car in

which Chamberlain was transported to the jail had cameras, which recorded Chamberlain making the following statements:

[T]his [is] your last day on the force I'm gonna make your life a livin' hell [Y]ou f--ked with the right n--ga today, boy, you don't even know what you gonna have coming your way

. . . .

I'll be glad when motherf--kers start just walking up to y'all cars shootin' y'all in y'all face. . . . [Y]'all n--gas gonna start gettin' whacked, mark my words boy. I want you to record everything I'm saying, yeah I threatened a[n] officer [Y]'all don't even know who I'm connected to, we about to find out though.

. . . .

[I will] find out where your daughter go to school at and I'm gonna rape the sh-t outta her little white ass n--ga, it could be arranged n--ga.

. . . .

I guarantee you, by the time you make it home tonight there's gonna be somebody there waitin' on you. We just lost two sworn officers Y'all n--gas just started a race war and don't even know it. It's over with for you Only if you knew how many guns I had access to, and yeah, I'm a felon, I don't supposed to have them, but they on deck, know that n--ga, we don't play by the rules home boy.

. . . .

Both of you n--gas just went night . . . either you gonna die or you gonna be off the force, which one you want?

. . . .

[W]e got better guns though, choppers n--ga, 30-30's n--ga, AR's n--ga, with silencers n--ga, with 50 round drums n--ga, sh-t that's cuttin' through them lil' weak ass vests n--gas.

. . . .

I'm coming for you! I'm coming for you! Remember my name, David Francis Chamberlain III! I am coming for you.

Whatever your name is, but I really want the one that put these cuffs on me, I'm gonna find him too. I'm gonna torture you and make you tell me where he at, n--ga. . . . I guarantee you out of 10,000 lakes, they won't find you, or your whole family, n--ga.

. . . .

All you . . . gonna get wiped off the surface.

. . . .

I just wanna make sure . . . your name on that paperwork n--ga, cause I'm coming to your house, n--ga! Write yo address down, n--ga. I bet I find you, n--ga. I bet my life on that, n--ga! I'm coming for you, boy!

When the recording ended, Chamberlain told an officer that "he was going to start [the officer's] house on fire and . . . take out the responding [emergency] units." The last thing that Chamberlain told the officers was that they would "both be dead by Friday."

Chamberlain was charged with making threats of violence, in violation of Minn. Stat. § 609.713, subd. 1 (2016).¹ A jury heard evidence from the officers and watched the video from the squad car before finding Chamberlain guilty. The district court sentenced Chamberlain to 18 months in prison, stayed for five years. This appeal followed.

DECISION

Chamberlain first argues that his statements did not constitute threats of violence. Whether statements meet the statutory definition of a threat of violence is an issue of statutory interpretation reviewed de novo. *State v. Olson*, 887 N.W.2d 692, 697 (Minn. App. 2016).

¹ He was also charged with criminal damage to property, which the state dismissed.

A person is guilty of committing a threat of violence when he “threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another . . . or in a reckless disregard of the risk of causing such terror.” Minn. Stat. § 609.713, subd. 1. “A threat is a declaration of an intention to injure another or his property by some unlawful act.” *State v. Schweppe*, 237 N.W.2d 609, 613 (Minn. 1975). In context, the declaration must “have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *Id.* (quotations omitted).

Chamberlain made the following threats, some more than once: (1) the officers were going to die, (2) he was going to rape an officer’s daughter, (3) he was going to torture an officer, (4) the officers and their families would not be found in any of 10,000 lakes, and (5) he was going to start an officer’s house on fire.

Chamberlain provided context as to why the officers should “trust and believe” that he was “coming for [them].” Chamberlain stated that he would find the officers’ residences using information that they provided on his paperwork; he stated that he “bet [his] life” on finding the officers’ addresses. He stated that he had “connect[ions],” and the officers were about to find out who he was connected to. He stated that he had “police on [his] payroll” who could look up information on the officers. He stated that he had access to “better guns,” listed the weapons, and stated that the weapons could “cut[] through them lil’ weak ass vests.” And he admitted that he is ineligible to possess firearms, but stated that he does not “play by the rules.” Thus, Chamberlain stated that he would murder the officers or conspire with others to have them murdered, rape an officer’s daughter, torture an officer, murder the officers’ families, and burn down an officer’s home; murder, criminal sexual

conduct, assault, and arson are violent crimes. Chamberlain also stated how and why he could execute these offenses.

Chamberlain's statements meet the statutory and caselaw requirements of (1) a declaration of an intention to injure another, (2) through the commission of a violent crime, (3) intending to terrorize, or in reckless disregard of the risk of causing terror, (4) while creating reasonable apprehension that he will act accordingly. *See* Minn. Stat. § 609.713, subd. 1; *Schweppe*, 237 N.W.2d at 613; *see also State v. Dick*, 638 N.W.2d 486, 489, 492 (Minn. App. 2002) (concluding evidence sufficient to sustain terroristic-threats conviction because it showed that the defendant was "rageful" when he threatened to find out where the officers lived, kill the officers, and "skin" an officer; he also spit at an officer, tried to bite and kick an officer, tried to kick out the back windows of the squad car, and fought with officers when they tried to shackle him), *review denied* (Minn. Apr. 16, 2002).

Chamberlain argues that, even if his statements are threats, the evidence is insufficient to show that he had the requisite intent. "Intent is a state of mind that is generally proved using circumstantial evidence by drawing inferences from the defendant's words and actions in light of the totality of the circumstances." *State v. Smith*, 825 N.W.2d 131, 136 (Minn. App. 2012) (quotation omitted), *review denied* (Minn. Mar. 19, 2013).

When reviewing the sufficiency of circumstantial evidence, this court takes a two-step approach. *See State v. Hanson*, 800 N.W.2d 618, 622 (Minn. 2011). First, this court identifies the circumstances proved. *Id.* In doing so, this court defers to the jury's "acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the [s]tate." *State v. Silvernail*, 831 N.W.2d

594, 598-99 (Minn. 2013) (quotations omitted). Next, this court conducts an independent examination of “the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with rational hypotheses other than guilt.” *State v. Al-Naseer*, 788 N.W.2d 469, 473-74 (Minn. 2010) (quotations omitted). The “[c]ircumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *Id.* at 473 (quotation omitted).

The following circumstances were proved. A citizen reported observing a man holding a “female in a headlock.” When officers responded to the report, Chamberlain denied that there was a problem and walked away during the investigation. Chamberlain then started yelling and acting “aggressive and not compliant.” Because of his behavior, officers handcuffed Chamberlain, but not without resistance. Chamberlain continued to be disruptive of the officers’ investigation, so they informed him that he would be detained in the squad car while they completed their investigation. While he was in the squad car, Chamberlain yelled to his daughter to not talk to the officers and to go home. He also forcefully kicked the door and window, and spit in the squad car. The officers arrested Chamberlain for obstructing their investigation and transported him to the jail.

Chamberlain then spewed vitriol directed at the officers. In his profanity littered rant, Chamberlain vowed to make the officers’ lives a “livin’ hell.” He stated that he would be “glad” when other individuals shot the officers. Chamberlain declared: “Y’all . . . gonna start gettin’ whacked, mark my words boy.” Chamberlain claimed to have connections. He stated that he had no respect for the officers or their children and stated that he was

going to rape an officer's daughter. Chamberlain "guarantee[d]" that when the officers arrived home, someone would be waiting for them and two officers would be "lost." Chamberlain boasted that he had access to "many guns," despite being a felon who is ineligible to possess firearms, because he does not play by the rules. Chamberlain told the officers that they would either die or be "off the force." Chamberlain told the officers that he was coming for them, and, again "guarantee[d]" that out of "10,000 lakes, they won't find [them], or [their] whole family." Chamberlain stated that the officers were "gonna get wiped off the surface." When the jail staff escorted Chamberlain into the jail, Chamberlain threatened to start an officer's house on fire and told the officers that they would "both be dead by Friday." These circumstances proved are consistent with Chamberlain's guilt.

We now must determine whether the circumstances proved are inconsistent with any reasonable hypothesis other than guilt. *Id.* at 473-74. Chamberlain claims that his statements were merely expressions of transitory anger. But this claim is contradicted by the length of the recording and Chamberlain's intervals of silence and apparent composure while sitting in the back of the squad car. Chamberlain's consistent return to his barrage of insults and profanity, and his commitment to seek revenge on the officers, shows that his anger was not fleeting, but was ongoing and intended to terrorize, or done in reckless disregard of the terror it might cause. The circumstantial evidence, thus, forms a complete chain that leads directly to Chamberlain's guilt and excludes any other reasonable hypothesis. Therefore, the evidence is sufficient to show that Chamberlain intended to terrorize the officers by threatening to harm and kill them and their families.

Affirmed.