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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-2020**

State of Minnesota,
Respondent,

vs.

Nathan Donald Meyer,
Appellant.

**Filed December 21, 2020
Affirmed
Reilly, Judge**

Redwood County District Court
File No. 64-CR-19-374

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

Jenna M. Peterson, Redwood County Attorney, Travis J. Smith, Special Assistant County Attorney, William C. Lundy (certified student attorney), Slayton, Minnesota (for respondent)

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

Considered and decided by Reilly, Presiding Judge; Worke, Judge; and Bratvold, Judge.

UNPUBLISHED OPINION

REILLY, Judge

After consuming methamphetamine and alcohol at a house party, appellant stabbed two victims. Both victims' injuries required medical attention. The state charged appellant

with two counts of second-degree assault and two counts of fifth-degree assault; the jury found appellant guilty of all four charges. Appellant challenges one of the second-degree assault convictions on the ground that the state did not prove that one of the victims suffered substantial bodily harm. We affirm.

FACTS

A jury heard these facts and found appellant Nathan Donald Meyer guilty of two counts of second-degree assault and two counts of fifth-degree assault. During the evening of April 24, 2019, and into the early hours of April 25, 2019, six individuals—appellant, appellant’s girlfriend, victims A.B. and J.A., J.A.’s friend, and T.R.—gathered in T.R.’s upstairs bedroom in the Redwood Falls home that L.S. owned. Everyone consumed alcohol and methamphetamine except for J.A., who only used methamphetamine.

As the night moved into the morning, appellant’s attitude, mannerisms, and body language became aggressive. Appellant’s aggression peaked when J.A. shared that he identifies as a bisexual man and has a daughter. After appellant stated that “fagots shouldn’t have babies,” J.A. asked appellant what his problem was, and appellant shoved J.A. up against a closet. When A.B. confronted appellant, he choked A.B. “really bad, really hard.” Appellant’s girlfriend intervened and tackled appellant off of A.B.

After appellant was removed from A.B., A.B. determined that appellant had stabbed him in the arm during the fight. And when J.A. reached down to help A.B. up, appellant stabbed J.A. in the back. After being stabbed, J.A. ran out of the bedroom but could hear appellant yelling after him, “I’m gunna kill you, you f-cking fagot.” Once he was outside, J.A. called the police.

A.B. went downstairs where L.S. cared for A.B.'s injury. A.B. was bleeding profusely and left a trail of blood through the house. L.S. got A.B. a towel for the blood and helped him into her car to take him to the hospital. But when she opened her garage door, police officers and an ambulance were in her driveway. Officers interviewed A.B. in the garage. A.B. was incoherent and kept saying, "it hurts, it hurts." When asked who stabbed him, A.B. told the officer appellant did.

An ambulance transported A.B. and J.A. to Carris Hospital in Redwood Falls. After medical staff determined J.A.'s injuries were life threatening, he was airlifted to Hennepin County Medical Center. A.B. received medical treatment at Carris Hospital.

The registered nurse who cared for A.B. testified that A.B.'s injury was "[n]ot a minor wound." And while the injury would not cause significant permanent damage, there was a possibility of some minor damage including minimal loss of function of the triceps. The state introduced A.B.'s medical records related to the incident and a photo of A.B. at the hospital. The photo depicted A.B. lying on a blood-soaked hospital bed with his arm in a tourniquet. The records described A.B.'s injury as a "deep cut to left arm, triceps region" and stated that the injury was six centimeters long, three centimeters wide, and three centimeters deep. A.B. received stitches to close the injury and antibiotics to reduce his risk of infection, and has a lasting scar on his left arm where appellant stabbed him.

The state charged appellant with two counts of second-degree assault and two counts of fifth-degree assault. After a two-day trial, the jury found appellant guilty on all four charges. This appeal follows.

DECISION

Appellant argues that this court should reverse one of his convictions for second-degree assault because the state did not prove beyond a reasonable doubt that A.B. suffered substantial bodily harm. An appellate court reviews a sufficiency-of-the-evidence challenge by carefully examining 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). We must assume that “the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011). A guilty verdict will not be disturbed “if the jury, 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. We review de novo whether an appellant’s conduct satisfies the statutory definition of an offense. *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013).

To convict appellant of second-degree assault, the state must prove that he assaulted another with a dangerous weapon, and inflicted substantial bodily harm. Minn. Stat. § 609.222, subd. 2 (2018). Substantial bodily harm is a “bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ or which causes a fracture of any bodily member.” Minn. Stat. § 609.02, subd. 7a (2018). Whether an injury constitutes a particular degree of bodily harm is a question for the jury. *See State v. Moore*, 699

N.W.2d 733, 737 (Minn. 2005) (holding that whether an injury constitutes great bodily harm is a question for the jury).

Sufficient evidence supports appellant's second-degree assault conviction. Appellant stabbed A.B. in his left arm with a six-inch-long knife. First responders transported A.B. by ambulance to the hospital where medical staff determined that A.B.'s injury was a deep cut that involved his triceps muscle. A.B. needed a tourniquet to stop the bleeding, stitches to close the injury, and antibiotics to reduce his risk of infection. The jury could reasonably infer that a stab wound that perforated A.B.'s muscle, and that required medical attention to stop the bleeding and close the injury, temporarily and substantially impaired the function of A.B.'s arm. *See State v. Russell*, 503 N.W.2d 110, 114 (Minn. 1993) ("In making its factual determination, the [fact-finder] was entitled to make reasonable inferences from the evidence, including inferences based on their experiences or common sense."). Moreover, the jury could reasonably have concluded that A.B.'s open, bleeding stab wound was a temporary but substantial disfigurement. *Id.*

Appellant, however, argues that caselaw suggests that "something more than a knife-inflicted wound, blood loss, and scar is needed to prove substantial bodily harm." We disagree. Our review of caselaw supports a finding of substantial bodily harm in this case. *See State v. Basting*, 572 N.W.2d 281, 283-86 (Minn. 1997) (stating evidence of a broken nose and a deep cut requiring stitches was sufficient to establish an assault with substantial bodily harm); *State v. Larkin*, 620 N.W.2d 335, 337 (Minn. App. 2001) (holding that a temporary loss of consciousness is substantial bodily harm); *State v. Carlson*, 369 N.W.2d 326, 327-28 (Minn. App. 1985) (holding that evidence of two black eyes, bruises,

and scratches was sufficient for a jury to conclude an assault caused substantial bodily harm), *review denied* (Minn. July 26, 1985); *see also State v. McDaniel*, 534 N.W.2d 290, 293 (Minn. App. 1995) (stating that two prominently located scars constitute permanent disfigurement under the stringent great bodily harm standard), *review denied* (Minn. Sept. 20, 1995). And, although “a fracture of any bodily member” is sufficient to establish substantial bodily harm, it is unnecessary. Minn. Stat. § 609.02, subd. 7a. Whether A.B.’s injury constitutes substantial bodily harm was a question for the jury. We will not disturb a guilty verdict if the jury could “reasonably conclude that the defendant was guilty of the charged offense.” *Ortega*, 813 N.W.2d at 100.

After examining the record, giving due deference to the jury, and viewing the evidence in the light most favorable to the verdict, we conclude that the evidence is sufficient to permit the jury to find appellant guilty of second-degree assault. Having determined that a reversal of appellant’s conviction is unwarranted, we need not address appellant’s other argument—the proper remedy on remand.

Affirmed.