

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0085**

State of Minnesota,
Respondent,

vs.

Jamshid Abdugafarovi Akramov,
Appellant.

**Filed February 16, 2021
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-18-6553

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

Michael O. Freeman, Hennepin County Attorney, Jordan W. Rude, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Anders J. Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Bjorkman, Judge; and Tracy

M. Smith, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

After a court trial, the district court found Jamshid Abdugafarovi Akramov guilty of two offenses: hiring a child to engage in prostitution and electronic solicitation of a child

to engage in sexual conduct. We conclude that the state's evidence is sufficient to support the convictions. Therefore, we affirm.

FACTS

On Friday, February 2, 2018, at approximately noon, Akramov texted a telephone number shown in an advertisement in the "women seeking men" section of backpage.com. The advertisement included a photograph of a female person and stated that she was 19 years old. The advertisement was not genuine but, rather, was part of an undercover operation in which law-enforcement officers posted the advertisement and monitored calls and messages to the telephone number associated with the advertisement.

Akramov's first text stated, "Hi sweetie!" An officer, posing as the female person depicted in the advertisement, answered, "Hi how are u." Akramov and the officer exchanged text messages about prices and time periods. Akramov chose a "quick visit," which the officer wrote would cost \$80, which was less expensive than an hour or a half hour. The officer sent a text saying, "I am young and dont feel like going to jail for doing this you are going to be cool right?" Akramov responded in the affirmative. The officer then wrote, "perfect I am 15 will be 16 next month." Akramov responded by writing that the fictitious girl was six years younger than 21, the age he had (falsely) assigned to himself. The officer wrote, "yeah i am cool if you are." Akramov wrote, "Yes only I'm scared me by your police." Akramov and the officer continued to exchange text messages about Akramov's request for a video call, the girl's location, whether Akramov had a condom, whether the girl wanted to meet for coffee, and Akramov's suggestion that they "do it in car."

At approximately 2:00 p.m., after a delay, the officer wrote, “you still coming?” Akramov responded in the affirmative. Akramov asked additional questions about whether the fictitious girl would “do out call” or “GFE,” meaning girlfriend experience. He also wrote, “This is my first time and . . . I am so scared.” When Akramov again noted that he was 21 while the girl was only 16, the officer wrote again that the girl was “almost 16.” Akramov sent additional text messages stating that he had recently broken up with his girlfriend, requesting additional photographs, and asking if the girl wanted a boyfriend. At approximately 3:00 p.m., the officer wrote, “ok have a good day.” Eight minutes later, Akramov resumed the text exchange, asking the girl whether she was working all night. At approximately 6:00 p.m., Akramov and the officer made arrangements for Akramov to meet the girl at 8:30 p.m.

At approximately 8:30 p.m., Akramov wrote that he was on his way and asked for the fictitious girl’s address. The officer directed Akramov to go to a nearby retail store and told him to text again when he had arrived there. Akramov did so, and the officer texted him the name and address of a particular hotel. When Akramov texted again to say that he had arrived at the hotel, the officer told him to go to room 140, knock on the door, and say his name. Akramov wrote, “can you show up on the door pls want to see you.” The officer reiterated that Akramov should say his name when he was outside the door to the hotel room.

At approximately 9:20 p.m., Akramov followed the instructions he was given and was arrested by police officers at the door to the hotel room. In a search incident to the

arrest, the officers found on his person \$85 in cash and the cell phone he had used to exchange text messages with the undercover officer.

The state charged Akramov with hiring a child to engage in prostitution, in violation of Minn. Stat. § 609.324, subd. 1(b)(3) (2016), and electronic solicitation of a child to engage in sexual conduct, in violation of Minn. Stat. § 609.352, subd. 2a(1) (2016). Akramov waived his right to a jury trial. The case was tried to the district court on one day in August 2019. The state presented the testimony of four police officers who were involved in the undercover investigation and introduced six exhibits, including a copy of the backpage.com advertisement and a transcript of the text messages exchanged by Akramov and the undercover officer. Akramov did not testify and did not present any other evidence. In September 2019, the district court filed a ten-page order in which it found Akramov guilty of both charges. The district court stayed imposition of the sentence for five years, placed Akramov on probation, and ordered him to serve 60 days in the county workhouse. Akramov appeals.

DECISION

Akramov argues that the evidence is insufficient to support his conviction of both offenses.

I. Hiring a Child to Engage in Prostitution

Akramov first argues that the evidence is insufficient to prove beyond a reasonable doubt that he committed the offense of hiring a child to engage in prostitution. The statute under which Akramov was charged and convicted states that a person commits the crime if he or she “hires or offers or agrees to hire an individual who the actor reasonably believes

to be under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.” Minn. Stat. § 609.324, subd. 1(b)(3).

In reviewing the sufficiency of the evidence supporting a conviction, we ordinarily undertake “a painstaking analysis of 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) (quotation omitted). “We will view the evidence in the light most favorable to the verdict and assume that the factfinder disbelieved any testimony conflicting with that verdict.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (quotation omitted). A verdict will not be overturned if the factfinder, “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.

A.

Akramov argues that, for three reasons, the state’s evidence is insufficient to prove beyond a reasonable doubt that he “hired” a person between the ages of 13 and 15 to engage in sex: first, he never made a payment; second, any agreement about a sum of money occurred before he learned of the supposed age of the fictitious girl; and third, his communications with the girl did not include specifics about the sexual acts to be performed. In response, the state argues that Akramov solicited the girl by making the initial inquiry, by requesting a “quick visit,” by asking for her location after she wrote that she was only 15 years old, by exchanging text messages about topics of a sexual nature, and by arriving at the designated hotel room and attempting to open the door.

The first part of Akramov’s argument is without merit because the statute prohibits not only hiring but also offering to hire and agreeing to hire. *See* Minn. Stat. § 609.324, subd. 1(b)(3). Even if Akramov never paid money to the fictitious girl, his words and conduct constitute both an offer to hire and an agreement to hire the girl. The word “hire,” as used in this context, means “to engage the labor or services of another for wages or other payment,” and “an act of soliciting prostitution is complete when the original offer is made.” *State v. Suspitsyn*, 941 N.W.2d 423, 428 (Minn. App. 2020) (quotations and alterations omitted), *review denied* (Minn. May 27, 2020). Accordingly, it is immaterial that Akramov never actually made payment.

The second part of this argument is without merit because Akramov followed through on his earlier agreement to hire the fictitious girl even after being informed that she was only 15 years old. He indicated some hesitation after learning of the girl’s age, referencing both the apparent age difference between them and the prospect of “police.” That occurred at approximately 12:30 p.m. Yet Akramov later resumed the exchange of text messages and continued communicating with the girl for several hours until he eventually went to her hotel room.

The third part of this argument is without merit because the evidence clearly shows that the agreement between Akramov and the fictitious girl was for “sexual penetration or sexual contact,” even if the particular type or form of penetration or contact was not specified. *See* Minn. Stat. § 609.324, subd. 1(b)(3). The state introduced direct evidence consisting of the transcript of the text messages exchanged by Akramov and the undercover officer as well as the trial testimony of police officers about the well-accepted meanings of

the statements made in the text messages, which proved that Akramov sought to hire the girl for sexual services.

B.

Akramov also argues that the state's evidence is insufficient to prove beyond a reasonable doubt that he intended to engage in sexual penetration or sexual conduct as opposed to intending merely to interact with the fictitious girl without any sexual contact.

A state typically proves a defendant's state of mind with circumstantial evidence. *See State v. Al-Naseer*, 788 N.W.2d 469, 474 (Minn. 2010). If a conviction depends on circumstantial evidence, this court uses a heightened standard of review. *Id.* at 473; *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013). In such a case, we apply a two-step test to determine the sufficiency of the evidence. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). First, we identify the circumstances proved. *Id.* (citing *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010)). "In identifying the circumstances proved, we assume that the [factfinder] resolved any factual disputes in a manner that is consistent with the [factfinder's] verdict." *Id.* (citing *Andersen*, 784 N.W.2d at 329). Second, we "examine independently the reasonableness of the inferences that might be drawn from the circumstances proved," and then determine whether "the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Id.* (quotations and alteration omitted). We consider the evidence as a whole rather than examine each piece in isolation. *Andersen*, 784 N.W.2d at 332.

In this case, the relevant circumstances proved are stated above. Akramov contends that the circumstances do not support a reasonable inference that he intended to hire, offer

to hire, or agree to hire a person less than 16 years old to engage in sex. In response, the state argues that the context of the entire exchange of text messages supports the inference that Akramov intended to engage in sexual penetration or sexual conduct. We agree with the state that the circumstantial evidence supports a reasonable inference that he intended to hire, offer to hire, or agree to hire a person less than 16 years old to engage in sex. The circumstantial evidence shows that Akramov understood that the fictitious girl would charge him \$80 for a “quick visit.” The state’s witnesses testified that the term “quick visit” commonly is used in this context to describe a sexual encounter lasting approximately 15 minutes. Many of Akramov’s subsequent text messages were sexual in nature. Akramov followed through on the sex-oriented discussion in the text messages by going to the fictitious girl’s hotel room with enough cash in his pocket to pay for a “quick visit.”

The next question is whether “the circumstances proved are . . . inconsistent with any rational hypothesis except that of guilt.” *Moore*, 846 N.W.2d at 88 (quotation omitted). Akramov contends that the circumstantial evidence is consistent with a rational hypothesis that, after learning of the fictitious girl’s young age, he changed his mind and thereafter sought something other than sexual penetration or sexual conduct, such as companionship without sexual conduct. He contends that he “vacillated” as to whether or not to meet the girl and was “uncertain” about it. That may have been true in mid-afternoon. But Akramov later decided to go to the girl’s hotel room, without any express agreement for something other than a “quick visit,” which indicates that he intended to follow through on the prior agreement. Akramov arrived at the hotel room with \$85 in his pocket, just enough to pay

the agreed upon price of \$80. Akramov's suggested inference that he went to the girl's hotel room intending to do something other than pay her \$80 for sexual services (which he does not identify with specificity) simply is not a rational hypothesis in light of the circumstances proved.

Thus, the evidence is sufficient to support Akramov's conviction of hiring a child to engage in prostitution.

II. Electronic Solicitation of a Child

Akramov also argues that the evidence is insufficient to prove beyond a reasonable doubt that he committed the offense of electronic solicitation of a child to engage in sexual conduct. The statute under which Akramov was charged and convicted states that an adult person commits the crime if he or she "uses . . . an electronic communications system, or a telecommunications, wire, or radio communications system, or other electronic device capable of electronic data storage or transmission . . . , with the intent to arouse the sexual desire of any person" to "solicit[] a child or someone the person reasonably believes is a child to engage in sexual conduct." Minn. Stat. § 609.352, subds. 2a, 2a(1).

A.

Akramov argues that the state's evidence is insufficient to prove beyond a reasonable doubt that he "solicited" the fictitious girl to engage in sexual conduct.

The word "solicit," as used in section 609.352, is defined within the statute to mean "commanding, entreating, or attempting to persuade a specific person in person, by telephone, by letter, or by computerized or other electronic means." Minn. Stat. § 609.352,

subd. 1(c) (2016). The words within this definition have the following more particular meanings:

“Entreat” is defined as “[t]o make an earnest request of.” [*The American Heritage Dictionary* 457 (2d College ed. 1982).] “Earnest” is defined as “[m]arked by or showing deep sincerity or seriousness.” *Id.* at 434. Regarding an attempt to persuade, an “attempt” is defined as “[a]n effort or try.” *Id.* at 139. “Persuade” means “[t]o cause (someone) to do something by means of argument, reasoning, or entreaty.” *Id.* at 926. “Command” means “[t]o direct with authority; give orders to.” *Id.* at 296.

State v. Koenig, 666 N.W.2d 366, 373 (Minn. 2003) (footnote omitted). Akramov contends that, after learning that the fictitious girl was 15 years old, “he did not command, entreat, or attempt to persuade [the girl] to engage in sexual conduct.”

We reject Akramov’s argument for reasons that are similar to the reasons stated above with respect to his argument that he did not hire, offer to hire, or agree to hire a child for sex. *See supra* part I.A. The state’s direct evidence shows that Akramov initiated communications with the fictitious girl with a text message stating, “Hi sweetie!” He thereafter engaged in a long series of text messages for the ultimate purpose of engaging in sexual conduct with a person whom he believed to be a 15-year-old girl. His text messages, which were admitted into evidence verbatim in written form, are within the dictionary definitions of the terms “entreat” and “attempt to persuade.” It is true that the advertisement indicated that the poster’s age was 19, not 15. But Akramov was informed that the girl was only 15 years old approximately 15 minutes after the first text message. He expressly acknowledged that the girl was younger than 16. Nonetheless, he continued

to exchange text messages over a period of approximately nine hours, until he was arrested at the door to the girl's hotel room.

B.

Akramov last argues that the state's evidence is insufficient to prove beyond a reasonable doubt that he had "the intent to arouse the sexual desires of any person." In response, the state argues that the context of the conversation clearly shows an intent to arouse, given the sexually charged nature of the text messages.

To satisfy its burden on this particular issue, the state may prove that a defendant intended to arouse the sexual desires of *any* person, including the defendant himself. *See State v. Muccio*, 890 N.W.2d 914, 922 (Minn. 2017). Because proof of Akramov's intent requires inferences from the state's circumstantial evidence, we apply the standard of review applicable to circumstantial evidence. *See Al-Naseer*, 788 N.W.2d at 473-74.

Akramov acknowledges that he made 13 statements that "could be considered sexual." Included among them are statements such as "I really want to see you," "you have beautiful smile," a statement that they should "do it" in a car, a comment that he would like to stay overnight with her in the hotel room, and a comment about the penises of the fictitious girl's customers. Akramov contends that, even if these statements could be read to indicate that he intended to arouse sexual desires, "there is an equally reasonable inference that [he] was only intending to take part in a discussion related to meeting [the girl] at the hotel."

The pertinent question is whether "the circumstances proved are . . . inconsistent with any rational hypothesis except that of guilt." *Moore*, 846 N.W.2d at 88 (quotation

omitted). Akramov does not suggest that he intended to achieve any particular purpose other than arousing sexual desire as a prelude to sexual activity. In the absence of a suggestion of a particular non-sexual purpose, we cannot interpret the text messages as anything other than an attempt to arouse sexual desire. Consequently, there is no rational hypothesis except that of guilt, given the circumstances proved.

Thus, the evidence is sufficient to support Akramov's conviction of electronic solicitation of a child to engage in sexual conduct.

Affirmed.

A handwritten signature in cursive script, appearing to read "Matthew J. Johnson".