

*This opinion is nonprecedential except as provided by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
A20-0795**

State of Minnesota,
Respondent,

vs.

Antwan Christopher Jones,
Appellant.

**Filed June 1, 2021
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-19-2202

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

Michael O. Freeman, Hennepin County Attorney, Adam E. Petras, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Johnson, Judge; and Hooten, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A Hennepin County jury found Antwan Christopher Jones guilty of first-degree aggravated robbery, third-degree assault, and second-degree assault. On appeal, Jones challenges the sufficiency of the evidence supporting the conviction of first-degree

aggravated robbery. We conclude that the evidence is sufficient to prove that Jones used force to overcome the victim's resistance to or acquiescence in Jones's taking of the victim's cell phone. Therefore, we affirm.

FACTS

On October 31, 2018, L.S. was walking on a sidewalk along Penn Avenue North in Minneapolis while talking on a cell phone. Jones, who is a distant relative of L.S., approached him from behind, grabbed him, and said to him, "Why did you tell on me?" L.S. said that he did not tell on Jones and tried to get away. Jones hit L.S.'s head with a tire iron. L.S. fell to the ground and dropped his cell phone. Jones punched L.S. while he lay on the ground and then either threw or kicked the cell phone into a storm sewer grate. Jones said to L.S., "I should have killed you," and walked away.

An eyewitness called 911 and stayed with L.S. until a police officer arrived. Officer Gillies interviewed the eyewitness and L.S. Paramedics took L.S. to a hospital, where he was diagnosed with a skull fracture and received stitches for a scalp laceration.

A police investigator later obtained and reviewed a video-recording created by a surveillance camera, which captured some of the incident. The video-recording shows a blue car pulling up to a curb and parking. It shows the driver getting out of the car, walking to the trunk, standing at the trunk for a few seconds, closing the trunk, and walking away from the car. The video-recording shows another person walking with one hand near his face as if talking on a cell phone. The video-recording shows the first person walking behind the second person and following him until both are beyond the view of the camera. Approximately one minute later, the first person walks back to the car and drives away.

Based on L.S.'s identification of Jones as his attacker and information about the car shown on the surveillance video-recording, the police investigator interviewed Jones in January 2019. The investigator showed Jones photographic images taken from the surveillance video-recording. Jones admitted that the car was his, that he was the person who opened the trunk of the car, and that he removed a "car jack thing" from the trunk, although he claimed that he put the item back in the vehicle before he approached L.S. Jones admitted that he confronted L.S. because L.S. had snitched on him to the police. Jones stated that he punched L.S. twice but denied using a tire iron to hit L.S. Jones admitted that, before he attacked L.S., he saw that L.S. was talking on a cell phone. Jones initially said that he kicked L.S.'s cell phone but later said that he picked up the cell phone and threw it into a storm sewer grate.

In January 2019, the state charged Jones with first-degree aggravated robbery, in violation of Minn. Stat. § 609.245, subd. 1 (2018), and third-degree assault, in violation of Minn. Stat. § 609.223, subd. 1 (2018). The state later amended the complaint by adding a charge of second-degree assault, in violation of Minn. Stat. § 609.222, subd. 1 (2018).

The case was tried to a jury on two days in December 2019. The state called six witnesses: L.S., the eyewitness, a paramedic who treated L.S. at the scene, Officer Gillies, the police investigator, and the emergency-room physician who treated L.S. at the hospital. Jones did not testify and did not present any other evidence. The jury found Jones guilty of all three charges.

In January 2020, Jones moved for a judgment of acquittal or, in the alternative, a new trial. Jones argued that the state's evidence is insufficient to prove aggravated robbery

on the ground that Jones did not use force to compel acquiescence in the taking of the cell phone. The district court denied Jones's motion. Jones appeals.

DECISION

Jones argues that the evidence is insufficient to support his conviction of first-degree aggravated robbery. Specifically, he argues that the state's evidence is insufficient to prove beyond a reasonable doubt that he used force for the purpose of overcoming resistance to or compelling acquiescence in his taking of L.S.'s cell phone.

A person commits simple robbery if he "takes personal property from [a] person . . . and uses or threatens the imminent use of force against any person to overcome the person's resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property." Minn. Stat. § 609.24 (2020). The use or threat of force must "precede or accompany either the taking or the carrying away" of property. *State v. Kvale*, 302 N.W.2d 650, 653 (Minn. 1981). A person commits first-degree aggravated robbery if he, "while committing a robbery, is armed with a dangerous weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon [and] inflicts bodily harm upon another." Minn. Stat. § 609.245, subd. 1 (2020). "Bodily harm" is defined as "physical pain or injury, illness, or any impairment of physical condition." Minn. Stat. § 609.02, subd. 7 (2020).

A.

When this court reviews 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 “assume that the factfinder disbelieved any testimony conflicting with that verdict.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (quotation omitted). We will not disturb a verdict if the fact-finder, “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.

The above-stated standard of review applies so long as a conviction is adequately supported by direct evidence. *State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016). Direct evidence is “evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Circumstantial evidence, on the other hand, is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted). A conviction depends on circumstantial evidence if proof of the offense, or a single element of the offense, is based solely on circumstantial evidence. *See State v. Fairbanks*, 842 N.W.2d 297, 307 (Minn. 2014).

If a conviction necessarily depends on circumstantial evidence, we apply a heightened standard of review. *Id.* The review applicable to circumstantial evidence consists of a two-step analysis. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). First, we “identify the circumstances proved.” *See id.* “In identifying the circumstances proved, we assume that the jury resolved any factual disputes in a manner that is consistent” with the verdict. *Id.* Second, “we examine independently the reasonableness of the inferences

that might be drawn from the circumstances proved” and “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotations omitted). At the second step of the analysis, we give no deference to the jury’s verdict. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). In assessing the circumstances proved and the inferences that may be drawn from them, we consider the evidence as a whole rather than examining each piece of evidence in isolation. *State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002).

In this case, the parties disagree about which standard of review is appropriate. In his principal brief, Jones asserts that the circumstantial-evidence standard applies and analyzes the sufficiency of the evidence according to that standard. In its responsive brief, the state contends that the traditional standard applies because there is sufficient direct evidence to support the conviction. In support of that contention, the state cites *Horst*, in which the supreme court stated, “when a disputed element is sufficiently proven by direct evidence alone, . . . it is the traditional standard, rather than the circumstantial-evidence standard, that governs.” 880 N.W.2d at 39. In his reply brief, Jones contends that the circumstantial-evidence standard should apply because the state was required to prove that, when he used force against L.S., Jones “had the ‘purpose’ to overcome [L.S.’s] resistance or compel his acquiescence,” and “purpose, like intent and knowledge, is a state of mind,” which cannot be proved with direct evidence.

Jones’s position is not supported by the caselaw specifically relating to the offense of conviction and the issue Jones has raised on appeal. In *State v. Townsend*, 941 N.W.2d 108 (Minn. 2020), the principal case on which Jones relies in support of this argument, the

supreme court applied the traditional standard and affirmed because the evidence “permit[ted] a fact-finder to reasonably conclude that Townsend used force for the purpose of overcoming the employee’s resistance to the carrying away of property.” *Id.* at 113. The *Townsend* court did not consider alternative hypotheses that are inconsistent with guilt. *Id.* at 112-13. Similarly, in *Kvale*, the supreme court applied the traditional standard and affirmed simply because the appellant’s “use of force in the infliction of bodily harm overcame the victim’s power to resist and compelled his acquiescence both in the completed taking and in the contemporaneous carrying away of the money.” 302 N.W.2d at 653. Accordingly, we will apply the traditional standard of review.

B.

As stated above, Jones argues that the state’s evidence is insufficient to prove beyond a reasonable doubt that he used force for the purpose of overcoming resistance to or compelling acquiescence in his taking of property. Jones contends that the evidence shows that his purpose was only to assault L.S. because he believed that L.S. had snitched on him and that he did not assault L.S. for the purpose of taking his cell phone.

The trial record includes direct evidence that could cause a reasonable juror to believe that Jones committed robbery. Before Jones attacked L.S., Jones was aware that L.S. was talking on a cell phone; Jones admitted that when he was interviewed by the police investigator. The eyewitness testified that, during the attack, L.S. yelled, “help me, help me, he’s trying to rob me.” When the eyewitness called 911, he reported that “some guy just robbed him.” The state introduced a video-recording created by Officer Gillies’s body-worn camera, which depicts L.S. telling the officer, “He took my phone.” Jones admitted

to the investigator that he either threw or kicked L.S.'s cell phone into a sewer grate as L.S. lay on the ground.

Under the traditional standard of review, we are required to view the evidence in the light most favorable to the verdict. *See Townsend*, 941 N.W.2d at 113. Given Jones's awareness of L.S.'s cell phone before the attack, Jones's actions to deprive L.S. of the cell phone, L.S.'s spontaneous comment during the attack, the eyewitness's description of the incident while on the 911 call, and L.S.'s statement after the fact that L.S. took his cell phone, a reasonable juror could find that Jones used force against L.S. "to overcome [his] resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property." Minn. Stat. § 609.24.

Thus, the state's direct evidence is sufficient to support Jones's conviction of first-degree aggravated robbery.

Affirmed.

A handwritten signature in dark ink, appearing to read "Matthew Johnson". The signature is fluid and cursive, with the first name "Matthew" written in a larger, more prominent script than the last name "Johnson".