

*This opinion is nonprecedential except as provided by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
A20-1142**

State of Minnesota,
Respondent,

vs.

Asa James Kingsbury,
Appellant.

**Filed July 26, 2021
Affirmed
Reilly, Judge**

Anoka County District Court
File No. 02-CR-18-7725

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

Anthony C. Palumbo, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney, Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Reilly, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant challenges his false-imprisonment conviction, arguing that his conviction must be reversed because the circumstantial evidence did not prove beyond a reasonable

doubt that he intentionally confined or restrained his girlfriend inside their home. We affirm.

FACTS

The jury heard the following testimony during trial. In November 2018, appellant Asa James Kingsbury lived with his then-girlfriend and their two children. One evening, girlfriend fell asleep in the bedroom with the children. At about 1:00 a.m., appellant woke girlfriend up and asked her to have sex with him. When she refused, appellant went into the living room and began throwing things around. Appellant returned to the bedroom and began to “attack [girlfriend] verbally” and called her a “whore.” Appellant told girlfriend that he knew she planned to take the children and go stay with her grandmother, which she had done in the past. Appellant then retrieved a power drill and drilled screws into the bedroom window, drilling it shut.

Girlfriend asked appellant to stop yelling. One of the children woke up and appellant took the child into the living room. Girlfriend asked appellant to let her put the child back to bed, but appellant refused. Appellant and girlfriend continued arguing about letting girlfriend and the child go back to sleep. Girlfriend picked up her cell phone and appellant began “hovering” over her, continuing to verbally attack her. Appellant told girlfriend that he had videos of her from the home-video cameras, and began yelling at her to watch the videos. Girlfriend stated she wanted to be left alone, and appellant pushed her down on the bed and continued yelling at her.

During this time, both children woke up and began crying. Girlfriend wanted to call 911, get the children dressed, and leave the home to go to her grandmother’s house.

Appellant told girlfriend she could not leave and would not allow her to go to her grandmother's house. Girlfriend did not feel like she could leave because the bedroom window was "screwed shut" and the door at the back of the house was dead-bolted and she could not unlock it. Girlfriend called 911. While she was speaking on the phone, appellant screwed all of the other windows shut with his power drill. Appellant also placed screws into the front door frame.

Police officers arrived at the home and knocked on the front door. Girlfriend tried to open the front door, but was unable to do so because the door was "drilled shut" and "[t]here were screws in the frame." Girlfriend did not see any way to leave the home with her children. The dispatch operator, who was still on the phone with girlfriend, informed the responding police officers that girlfriend could not open the door because it was screwed shut. Officers forced entry into the home and placed appellant under arrest.

Respondent State of Minnesota charged appellant by amended complaint with one count of threats of violence under Minn. Stat. § 609.713, subd. 1 (2018), and one count of false imprisonment under Minn. Stat. § 609.255, subd. 2 (2018). The district court held a jury trial, and the jury found appellant guilty of false imprisonment and not guilty of threats of violence. The district court stayed imposition of sentence and sentenced appellant to jail time. This appeal follows.

DECISION

Appellant argues that the evidence is insufficient to support his false-imprisonment conviction because the circumstances proved are consistent with the rational hypothesis that appellant was trying to keep the police out of his home, not to restrain or confine his

girlfriend inside the home. To evaluate the sufficiency of the evidence, appellate courts “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the factfinder to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Waiters*, 929 N.W.2d 895, 900 (Minn. 2019) (quotation omitted). Appellate courts review the evidence “in the light most favorable to the conviction” and “assume the jury believed the State’s witnesses and disbelieved any evidence to the contrary.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). Appellate courts “will not disturb the verdict 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.” *Id.*

There are two types of evidence, direct and circumstantial. 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). We apply a heightened standard of review when the state’s evidence on one or more elements of a charged offense consists solely of circumstantial evidence. *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013). In a circumstantial-evidence case, we apply a two-step test to evaluate the sufficiency of the evidence. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). First, the court “identif[ies] the circumstances proved.” *Id.* (citing *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010)). “In identifying the

circumstances proved, [this court] assume[s] that the jury resolved any factual disputes in a manner that is consistent with the jury’s verdict.” *Id.* (citing *Andersen*, 784 N.W.2d at 329). Second, we independently examine 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). We consider the evidence as a whole and do not examine each piece in isolation. *Andersen*, 784 N.W.2d at 332. Both parties briefed the sufficiency of the evidence using the circumstantial-evidence analysis.

The jury convicted appellant of false imprisonment under Minn. Stat. § 609.255, subd. 2. Under the statute, “Whoever, knowingly lacking lawful authority to do so, intentionally confines or restrains . . . any . . . person without the person’s consent, is guilty of false imprisonment.” *Id.* “Intentionally” means “the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(3) (2018). “A jury is permitted to infer that a person intends the natural and probable consequences of their actions.” *State v. Johnson*, 616 N.W.2d 720, 726 (Minn. 2000). Respondent sought to prove appellant’s intent to confine girlfriend against her will with the use of circumstantial evidence.

We begin by identifying the circumstances proved. *State v. Hanson*, 800 N.W.2d 618, 623 (Minn. 2011). The circumstances proved show that girlfriend was asleep in the bedroom with the children. At about 1:00 a.m., appellant woke her up and asked her to have sex with him. When she declined, appellant began throwing things around the living

room and then returned to the bedroom and began verbally attacking her. Appellant called girlfriend a whore and told her she was not allowed to leave the house with the children to go to her grandmother's house. Appellant used a power drill to screw the bedroom window shut, and continued verbally attacking girlfriend. Appellant told girlfriend that he watched videos of her from the home cameras and tried to force her to watch the videos. Girlfriend refused, and appellant pushed her down onto the bed. During the argument, the children woke up and girlfriend wanted to leave the house and go to her grandmother's house. Girlfriend called 911. Appellant told girlfriend that she could not leave and drilled screws into the other windows in the home and into the front door frame.¹ Girlfriend did not believe she could leave the home because all the doors and windows were screwed shut, and there was a deadbolt lock on the back door that she could not open. When the police officers arrived, girlfriend tried to open the front door but could not do so. Girlfriend told the emergency dispatcher that the door was screwed shut and she could not open it. The dispatcher relayed this information to the responding officers, who forced entry into the home. The evidence presented at trial supports a determination that appellant intentionally confined girlfriend in the home without her consent. Thus, the circumstances proved are consistent with guilt.

The next step requires us to evaluate "independently the reasonableness of all inferences that might be drawn from the circumstances proved," including inferences

¹ We believe appellant's statement and action of screwing the bedroom window shut are direct evidence that establish his intent to confine and restrain his girlfriend. But because neither party made arguments regarding direct evidence, we analyze the issue under the heightened rational hypothesis standard.

consistent with a hypothesis other than guilt. *Id.* at 622 (quotation omitted). Under this test, the fact-finder “is in a unique position to determine the credibility of the witnesses and weigh the evidence before it.” *Harris*, 895 N.W.2d at 600. Appellant argues that the circumstantial evidence supports a reasonable inference inconsistent with guilt, specifically, that he intended to keep the police out of his home, not to confine or restrain girlfriend. Appellant argues that girlfriend was able to “freely walk[] from room to room in the home,” and notes that he allowed her to dress the children.

Appellant’s argument does not persuade us. Girlfriend testified that appellant drilled screws into the bedroom window *before* she got her cell phone and stated she wanted to call the police. Girlfriend testified she did not intend to call the police when appellant first drilled screws into the bedroom window. Thus, it is not reasonable to infer that appellant intended to keep the police out of the home, when girlfriend had not yet tried to call them. And it is uncontested that after girlfriend called the police, appellant drilled screws into the remaining windows and the doorframe. This action undoubtedly had the effect of confining girlfriend indoors. Lastly, when girlfriend tried to open the door to the responding police officers, she was unable to do so. Girlfriend told the emergency dispatcher that the front door was screwed shut and she could not open it. It is unreasonable to infer from all the circumstances proved that appellant only intended to keep the police out and did not intend to keep girlfriend in the home.

A defendant may not rely on mere conjecture or speculation, but must point to specific evidence in the record consistent with innocence. *State v. Al-Naseer*, 788 N.W.2d 469, 480 (Minn. 2010). The inferences presented by appellant do not support his theory

that he only intended to keep the police out of the home. We consider the evidence as a whole and do not examine each piece in isolation. *Andersen*, 784 N.W.2d at 332. Based on the evidence presented, and viewed in the light most favorable to the jury's verdict, we conclude that respondent proved beyond a reasonable doubt that appellant is guilty of false imprisonment.

Affirmed.