STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1582

State of Minnesota,
Respondent,

vs.

Abdirahman Hussein Farah,
Appellant.

Filed December 5, 2022
Affirmed
Ross, Judge

Hennepin County District Court
File No. 27-CR-21-4726

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

Michael O. Freeman, Hennepin County Attorney, Jonathan P. Schmidt, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

Considered and decided by Frisch, Presiding Judge; Ross, Judge; and Connolly, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Appellant Abdirahman Farah repeatedly stabbed a man at a homeless shelter after the man began hitting him. During jury deliberations in Farah's trial on an assault charge, the jury inquired as to whether Farah's shelter bunk was his home for purposes of a

resident's duty to retreat before engaging in self-defense. The district court answered only that the jury had all the information it needed to make its decision, and the jury then found Farah guilty of first-degree assault. We affirm Farah's conviction over his contention on appeal that the district court's failure to respond substantively to the jury's question was an abuse of discretion. We do so because the force Farah used in his alleged self-defense was unreasonable regardless of whether he had no duty to retreat.

FACTS

Abdirahman Farah quarreled with another man, whom we will call John for his privacy, while the two were assigned to adjacent top bunk beds at a Minneapolis homeless shelter. When most lodgers in the bunk room fell asleep, John hit Farah in the head, and the two men heatedly exchanged words, standing atop their beds. Farah drew his pocketknife after John hit him multiple times. Farah slashed or stabbed John at least six times, cutting his neck and puncturing his heart. John walked from the sleeping area and toward the main exit of the shelter, leaving a trail of blood. Farah stood on his bed, holding the knife.

John's wounds were severe and life-threatening. An ambulance crew rushed him to the emergency room. His heart temporarily stopped beating, and he suffered a stroke. Farah had a minor cut near his palm, and he said his jaw was bruised. Paramedics treated his cut at the scene.

The state charged Farah with first-degree assault, and the case proceeded to a jury trial. The district court instructed the jury on self-defense, including the requirement that a person may use force in self-defense only after he attempts to retreat from the conflict,

unless he is in his home. During closing arguments, the parties asserted different definitions of "home." The prosecutor argued that the shelter was not Farah's or anyone else's home. Farah's attorney argued that the shelter was Farah's home for the night.

While deliberating, the jury asked the district court, "What defines a home? Does his bunk qualify[?]" After hearing conflicting proposed answers from the parties, the district court told the jury: "It is the belief of the Court that you have the information that you need to make your decision." The jury found Farah guilty of first-degree assault using a dangerous weapon. The district court sentenced him to 175 months in prison.

Farah appeals.

DECISION

Farah asks us to reverse his conviction because of the district court's failure to respond substantively to the jury's question. We first address this issue, and we then discuss the issues Farah raises in his supplemental brief.

I

Farah contends that the district court should have instructed the jury that his bunk was his home, meaning that he had no duty to retreat before stabbing John in alleged self-defense. We review a refusal to give a jury instruction for an abuse of discretion. *State v. Shane*, 883 N.W.2d 606, 611 (Minn. App. 2016). And an erroneously omitted instruction does not lead us to reverse if the omission constitutes a harmless error. *State v. Lee*, 683 N.W.2d 309, 316 (Minn. 2004). An error is harmless if, beyond a reasonable doubt, it did not have a significant impact on the verdict. *State v. Shoop*, 441 N.W.2d 475, 481 (Minn.

1989). Here we do not decide whether failing to respond to the jury question was an abuse of discretion because, at most, the failure was a harmless error.

The alleged error was harmless because Farah's force was excessive relative to John's attack. An individual may use only *reasonable* force against another to resist an offense against his person. Minn. Stat. § 609.06, subd. 1(3) (2020). That means a person may use no more than the level of force necessary to prevent a harm that he reasonably fears. *State v. Devens*, 852 N.W.2d 255, 258 (Minn. 2014). Although reasonableness is typically an inquiry for the fact-finder, it may be decided as a matter of law when no reasonable mind could differ as to the conclusion. *State v. Glowacki*, 630 N.W.2d 392, 403 (Minn. 2001). Reasonable minds could not differ here.

The state persuasively argues that, regardless of any potential confusion the jury might have had about whether Farah's bunk constituted his home, Farah used a level of force that was unreasonable as a matter of law. Farah's reply brief does not even attempt to counter the state's position as to unreasonableness. And nothing in the record suggests that Farah feared for his life or feared great bodily harm so as to justify the lethal level of force he used when combatting John. Farah responded to blows to his head with repeated knife thrusts or slashes at John's vital areas. We do not suggest that punches to the head are not dangerous, but no evidence indicates that the repeated acts of deadly force were necessary to end the attack, making Farah's response objectively unreasonable. Absent any argument to the contrary and given the undisputed severity of Farah's reaction, we conclude that Farah employed a disproportionate level of force that renders any

instructional error immaterial to the guilty verdict and therefore harmless beyond a reasonable doubt.

Although we do not reach the substance of Farah's argument that the instruction was erroneous, we reiterate that a district court abuses its discretion if jury instructions are confusing, misleading, or a material misstatement of the law. *State v. Taylor*, 869 N.W.2d 1, 14–15 (Minn. 2015). And instructions on self-defense should be given with "analytic precision." *State v. Hare*, 575 N.W.2d 828, 833 (Minn. 1998) (quotation omitted). That the jury appeared to be confused by the parties' conflicting arguments as to whether the jury could find that the bunk was Farah's home indicates that a clarifying instruction may have been particularly helpful, and a summary of the supreme court's discussion in *Devens* might have better guided deliberations. 852 N.W.2d at 259.

II

Farah's supplemental brief raises three issues: that the district court failed to instruct the jury about the parties' stipulation; that his counsel was ineffective because of her failure to object to the lack of instruction; and that his request for a sentencing departure should have been granted. As to the first two issues, we observe that both parties and the district court had previously agreed that the court would read the stipulation that John was the aggressor at the end of the state's case, which the court did. We see no error in either of the first two issues. As to the third, Farah does not provide a legal or factual basis for us to conclude that the district court abused its discretion by sentencing him within the Minnesota Sentencing Guidelines. Farah's supplemental arguments therefore fail.

Affirmed.