

*This opinion is nonprecedential except as provided by  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  
A22-1166**

State of Minnesota,  
Respondent,

vs.

Isaiah Jacob Bonin,  
Appellant.

**Filed May 15, 2023  
Affirmed  
Johnson, Judge**

Sherburne County District Court  
File No. 71-CR-20-708

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

Kathleen A. Heaney, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for respondent)

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

Considered and decided by Bryan, Presiding Judge; Johnson, Judge; and Bratvold, Judge.

**NONPRECEDENTIAL OPINION**

**JOHNSON, Judge**

A Sherburne County jury found Isaiah Jacob Bonin guilty of fleeing a peace officer in a motor vehicle. We conclude that the evidence is sufficient to support the conviction

and that the district court did not err in instructing the jury on the elements of the offense. Therefore, we affirm.

## **FACTS**

In the early evening of May 19, 2020, Officer Aswegan of the Elk River Police Department saw a grey BMW convertible with a blue or purple damaged bumper drive around a roundabout at a high rate of speed. From a distance of approximately 25 feet, Officer Aswegan observed the driver for two or three seconds through the open driver's-side window.

Officer Aswegan attempted to stop the car by activating the emergency lights and siren of his unmarked squad car. Within a few seconds, the BMW accelerated to more than 100 miles per hour and sped out of sight. Officer Aswegan searched for the BMW for approximately 15 minutes, saw it again, and reactivated his lights when he was approximately 200 yards behind it. The BMW slowed down and moved to the shoulder but drove away quickly after Officer Aswegan pulled up behind it. Officer Aswegan again pursued the BMW but discontinued the chase after approximately three-tenths of a mile due to concerns about the high speed of the chase.

Officer Aswegan and a colleague, Officer Martin, determined, by referring to law-enforcement databases, that a grey BMW convertible was registered to Bonin. Officer Aswegan viewed Bonin's driver's-license photograph and determined that he was the person driving the BMW. Officer Aswegan later wrote in a police report that the driver was a thin White male in his early twenties with light, dirty-blond hair.

Officer Aswegan drove to Bonin's residence and made contact with Bonin's father. Shortly after the officer arrived there, the grey BMW convertible with a blue or purple damaged bumper approached, stopped approximately 25 or 30 yards away, quickly reversed, and sped away.

In June 2020, the state charged Bonin with fleeing a peace officer in a motor vehicle, in violation of Minn. Stat. § 609.487, subd. 3 (2018). The matter was tried to a jury on two days in March 2022. The state called two witnesses: Officer Aswegan and Officer Martin. Officer Aswegan testified to the facts described above. During his testimony, he identified Bonin "with high certainty" as the person who was driving the BMW. Officer Martin testified about assisting Officer Aswegan in finding a grey BMW convertible registered to Bonin on law-enforcement databases.

Bonin testified that he owned the grey BMW convertible with a blue or purple damaged bumper but did not drive it on the evening of May 19, 2020. He testified that he was elsewhere in the Twin Cities with friends from the afternoon of May 19, 2020, until the evening of May 20, 2020. He also testified that he was in contact with two persons who were interested in buying the BMW and that he left the keys inside the car so that the interested persons could test-drive it while he was away. He further testified that one of the potential buyers has a physical appearance similar to his.

The jury found Bonin guilty. The district court imposed a sentence of 12 months and one day but stayed execution of the sentence and placed Bonin on probation for three years. Bonin appeals.

## DECISION

### I. Sufficiency of the Evidence

Bonin first argues that the evidence is insufficient to support the conviction.

The statute setting forth the offense of conviction provides: “Whoever by means of a motor vehicle flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, is guilty of a felony.” Minn. Stat. § 609.487, subd. 3. In this context, the phrase “to flee” is defined by statute to mean “to increase speed, extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle.” *Id.*, subd. 1. The phrase “with intent to” is defined by statute to mean “that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2018).

In analyzing an argument that the evidence is insufficient to support a conviction, this court ordinarily undertakes “a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). We 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) (quotation omitted). We will not overturn a 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.” *Ortega*, 813 N.W.2d at 100.

The above-described 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 “[e]vidence 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) (alteration in original) (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. *State v. Fairbanks*, 842 N.W.2d 297, 307 (Minn. 2014).

If a conviction depends on circumstantial evidence, we apply a heightened standard of review with a two-step analysis. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). “The first step is to identify the circumstances proved.” *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.* The second step is to “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.* (alteration in original) (quotations omitted). At the second step, we do not give deference to the jury’s verdict. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017).

#### **A. Identity**

Bonin challenges the sufficiency of the evidence in two ways. He first contends that the state did not prove beyond a reasonable doubt that he—as opposed to some other

person—was the driver of the grey BMW convertible with a blue or purple damaged bumper on the evening of May 19, 2020, when the car was observed by Officer Aswegan. He contends that Officer Aswegan’s identification of him is unreliable because the officer had only a fleeting opportunity to observe the driver of the car.

In general, a conviction may rest on the testimony of a single witness who saw the defendant commit a crime. *See, e.g., State v. Miles*, 585 N.W.2d 368, 373 (Minn. 1998). But if “the single witness’ identification of a defendant is made after only fleeting or limited observation, corroboration is required if the conviction is to be sustained.” *State v. Walker*, 310 N.W.2d 89, 90 (Minn. 1981); *see also State v. Lloyd*, 345 N.W.2d 240, 244-45 (Minn. 1984); *State v. Weibel*, 314 N.W.2d 231, 232 (Minn. 1982). The corroborating evidence may consist of circumstantial evidence without implicating the heightened circumstantial-evidence standard of review. *See Lloyd*, 345 N.W.2d at 244-45; *Weibel*, 314 N.W.2d at 232.

In this case, the parties appear to agree that Officer Aswegan’s opportunity to observe the driver of the car was “fleeting” and that his identification of Bonin requires corroboration. Bonin asserts that there is no corroborating evidence. In response, the state contends that Officer Aswegan’s identification is corroborated by other evidence, such as the fact that the grey BMW convertible had a distinctive blue or purple damaged bumper, that Bonin was the registered owner of a grey BMW convertible, and that the grey BMW convertible with a blue or purple damaged bumper arrived at Bonin’s residence shortly after the officer’s high-speed chase and then quickly sped away. The state’s contention is supported by the evidentiary record. The evidence described by the state corroborates

Officer Aswegan's identification of Bonin because the evidence provided the jury with additional reasons to believe that Officer Aswegan had accurately identified Bonin as the driver of the vehicle on the evening of May 19, 2020.

Thus, the evidence is sufficient to prove beyond a reasonable doubt that Bonin was the driver of the grey BMW convertible with a blue or purple damaged bumper when it was observed by Officer Aswegan on the evening of May 19, 2020.

## **B. Intent**

Bonin also contends that the state did not prove beyond a reasonable doubt that the driver of the grey BMW convertible with a blue or purple damaged bumper (whom we now will assume to be Bonin) intended to flee from Officer Aswegan.

The state was required to prove beyond a reasonable doubt that Bonin acted "with intent to attempt to elude a peace officer." *See* Minn. Stat. § 609.487, subd. 1. A defendant's intent typically is proved by circumstantial evidence. *State v. McAllister*, 862 N.W.2d 49, 53 (Minn. 2015). Accordingly, we apply the heightened circumstantial-evidence standard of review described above to the evidence concerning Bonin's intent to flee. *See Harris*, 895 N.W.2d at 598-601; *Moore*, 846 N.W.2d at 88.

We first identify the circumstances proved, which are as follows. Officer Aswegan observed a grey BMW convertible with a blue or purple damaged bumper drive around a roundabout at a high rate of speed. Officer Aswegan saw the driver's face for two or three seconds through the open driver's-side window from a distance of approximately 25 feet. The BMW sped out of sight at more than 100 miles per hour. Officer Aswegan signaled for Bonin to pull over by activating his emergency lights when he was 200 yards behind

the BMW. The BMW began to slow down but then accelerated again and drove away at a high rate of speed. Officer Aswegan viewed Bonin's driver's-license photograph and determined that it matched the driver of the BMW. Officer Aswegan drove to Bonin's residence and parked his squad car in the driveway. The grey BMW convertible with a blue or purple damaged bumper pulled up to Bonin's address while Officer Aswegan was there. The BMW stopped 25 or 30 yards away, quickly reversed in the middle of the street, and sped away.

The state contends that the circumstances proved support a reasonable inference that Bonin intended to elude Officer Aswegan. Bonin does not dispute that such an inference would be a reasonable inference. We agree with the state that the circumstances proved support an inference that Bonin intended to elude Officer Aswegan.

We next consider whether there are reasonable inferences from the circumstances proved that are inconsistent with guilt because they support a rational alternative hypothesis that Bonin did *not* intend to elude Officer Aswegan. *See Harris*, 895 N.W.2d at 600-01. Bonin has identified two alternative hypotheses.

First, Bonin contends that there is a rational alternative hypothesis that he was not aware that Officer Aswegan was signaling for him to stop his car, which is a predicate of the offense of fleeing. *See Minn. Stat. § 609.487, subd. 1.* But that hypothesis is inconsistent with the evidence that, when Officer Aswegan followed him with flashing lights, Bonin slowed down and pulled over to the shoulder before quickly accelerating again. Bonin's alternative hypothesis also is inconsistent with the evidence that Bonin sped



around a roundabout and drove away at more than 100 miles per hour, which would have made him aware that he could be pulled over for a traffic violation.

Second, Bonin contends that there is a rational alternative hypothesis that he was aware that another car was signaling for him to stop his car but feared that the driver of the unmarked car was a would-be carjacker or a person with other wrongful intent. But that hypothesis is inconsistent with the evidence that Bonin once began to pull over after Officer Aswegan activated his flashing lights, which indicates that Bonin was aware that he was being pursued by a law-enforcement officer.

In light of the circumstances proved, Bonin's proposed alternative hypotheses of his innocence are not rational. Thus, the evidence is sufficient to prove beyond a reasonable doubt that Bonin intended to flee from Officer Aswegan.

## **II. Jury Instructions**

Bonin also argues that the district court erred by not properly instructing the jury on the intent that is required for the offense of fleeing a peace officer in a motor vehicle.

A district court must instruct the jury in a way that “fairly and adequately explain[s] the law of the case” and does not “materially misstate[] the applicable law.” *State v. Koppi*, 798 N.W.2d 358, 362 (Minn. 2011). This court reviews jury instructions “as a whole to determine whether [they] accurately state the law in a manner that can be understood by the jury.” *State v. Kelley*, 855 N.W.2d 269, 274 (Minn. 2014). A district court has “considerable latitude” in selecting language to be used in the jury instructions. *State v. Gatson*, 801 N.W.2d 134, 147 (Minn. 2011) (quotation omitted). Accordingly, this court

applies an abuse-of-discretion standard of review to a district court's jury instructions. *Koppi*, 798 N.W.2d at 361.

In this case, the district court gave the following instruction concerning the offense of fleeing a peace officer in a motor vehicle:

Under Minnesota law whoever, by means of a motor vehicle, flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty and who knows or reasonably should know the person is a peace officer is guilty of a crime.

The elements of fleeing a peace officer in a motor vehicle are:

First, the defendant, by means of a motor vehicle, fled or attempted to flee a peace officer. To flee means to increase speed, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of the motor vehicle. Peace officer means an employee of a political subdivision or a state law enforcement agency who is licensed by the Minnesota Board of Peace Officer Standards and Training who is charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and has the full power of arrest.

Second, the peace officer was acting in the lawful discharge of an official duty.

Third, the defendant knew or reasonably should have known it was a peace officer from whom the defendant was fleeing or attempting to flee.

And, fourth, the defendant's act took place on or about May 19th, 2020, in Sherburne County. If you find that each of the elements has been proven beyond a reasonable doubt, the defendant is guilty. If you find that any element has not been proven beyond a reasonable doubt, the defendant is not guilty.

The district court further instructed the jury that “if I have not defined a word or a phrase, you should apply the common, ordinary meaning of that word or phrase.”

Bonin contends that the above-quoted instruction is erroneous for two reasons. First, he contends that the district court erred because it did not “list specific intent as an element of the offense.” Second, he contends that the district court erred because it did not provide the jury with the statutory definition of the phrase “with intent to.” Bonin acknowledges that he did not object to the jury instruction on these grounds in the district court and, thus, acknowledges that this court should review only for plain error. *See* Minn. R. Crim. P. 31.02. Under the plain-error test, an appellant is entitled to relief on an issue for which no objection was made at trial only if (1) there is an error, (2) the error is plain, and (3) the error affects the appellant’s substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If these three requirements are satisfied, the appellant also must satisfy a fourth requirement, that the error “seriously affects the fairness and integrity of the judicial proceedings.” *State v. Little*, 851 N.W.2d 878, 884 (Minn. 2014). An error is “plain if it is ‘clear’ or ‘obvious,’ which is typically established ‘if the error contravenes case law, a rule, or standard of conduct.’” *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quoting *Kelley*, 855 N.W.2d at 277).

In support of his first point, Bonin contends that the district court should have instructed the jury that the offense of fleeing a peace officer in a motor vehicle is a specific-intent crime. We do not doubt that the charged offense requires proof of specific intent. *See State v. Anderson*, 468 N.W.2d 345, 346 (Minn. App. 1991) (stating that offense of fleeing peace officer in motor vehicle “requires a specific intent to attempt to elude the

officer”); *see also State v. Wilson*, 830 N.W.2d 849, 852-54 (Minn. 2013) (stating that offense of fleeing peace officer by means other than motor vehicle “is a specific-intent crime”). But the district court did not fail to inform the jury of the required level of intent. The district court’s instruction closely tracks the statute (which is quoted above in part I) by stating, “To flee means to increase speed, refuse to stop the vehicle, or use other means *with intent to* attempt to elude a peace officer following a signal given by any peace officer to the driver of the motor vehicle.” (Emphasis added.) That sentence is in the paragraph of the instructions describing the first element of the offense, which concerns the act of fleeing. Bonin has not cited any authority for the proposition that the requisite level of intent must be communicated to the jury as a separately enumerated element of the offense. Thus, the district court did not err in instructing the jury on the required level of intent.

In support of his second point, Bonin contends that the district court should have given the jury the statutory definition of the phrase “with intent to.” The supreme court has stated that “detailed definitions of the elements to the crime need not be given . . . if the instructions do not mislead the jury or allow it to speculate over the meaning of the elements.” *Peterson v. State*, 282 N.W.2d 878, 881 (Minn. 1979). This court has interpreted *Peterson* to mean that “detailed definitions of an element of an offense may be necessary if, without the additional detail, the instructions could mislead the jury or cause the jury to speculate about what the state must prove to obtain a guilty verdict.” *State v. Moore*, 863 N.W.2d 111, 120 (Minn. App. 2015), *rev. denied* (Minn. July 21, 2015). Accordingly, whether instructions are misleading without detailed statutory definitions

depends primarily on whether there are differences between the statutory definition of a word or phrase and the common and ordinary meaning of the word or phrase. *See id.*

In this case, there is no apparent difference between the statutory definition of the phrase “with intent to” and the common and ordinary meaning of that phrase. The statutory definition of “with intent to” is that “the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4). Similarly, lay dictionaries define “intent” to mean “[s]omething that is intended; an aim or purpose,” *American Heritage Dictionary of the English Language* 912 (5th ed. 2018); “[t]he act or fact of intending or purposing; intention, purpose (formed in the mind),” *Oxford English Dictionary* 1078 (2d ed. 1989); and “the act, the fact, or an instance of intending; purpose, design,” *Webster’s Third New International Dictionary* 1176 (3d ed. 1961). Bonin has not attempted to identify any differences between the statutory definition of the phrase “with intent to” and the common and ordinary meaning of the phrase. Thus, the district court did not err by not including the statutory definition of “with intent to” in the jury instructions.

**Affirmed.**