STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1709

State of Minnesota,
Respondent,

vs.

Chace Jeffrey Boggs,
Appellant.

Filed August 28, 2023
Affirmed
Worke, Judge

Brown County District Court
File No. 08-CR-22-411

Keith Ellison, Attorney General, Joan Eichhorst, Assistant Attorney General, St. Paul, Minnesota; and

Lacy Schumacher, Flaherty & Hood, P.A., St. Paul, Minnesota (for respondent)

Zachary S. Webster, Jacob M. Birkholz, Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Worke, Judge; and Smith, John P., Judge.[*]

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges his conviction of domestic assault—fear, arguing that the evidence insufficiently proved that he intended to cause the victim fear of immediate bodily harm or death. Appellant also argues that it was legally inconsistent for the jury to find him guilty of domestic assault—fear while acquitting him of domestic assault—harm and disorderly conduct. We affirm.

FACTS

Respondent State of Minnesota charged appellant Chace Jeffrey Boggs with domestic assault—fear, domestic assault—harm, and disorderly conduct. *See* Minn. Stat. §§ 609.2242, subds. 1(1), (2), .72, subd. 1 (2020).

At trial, M.G. testified that she and Boggs had a romantic relationship and a son, W.B. After Boggs and M.G.'s romantic relationship ended, they continued cohabitating to coparent W.B.

Boggs and M.G. "fought a lot." After one argument, Boggs "punch[ed] a hole in the wall" in M.G.'s presence. On another occasion while Boggs and M.G. were in bed, Boggs "punched the bed near" M.G.

On February 21, 2022—when W.B. was approximately eight months old—M.G. was sleeping on the living room couch. M.G. "awoke to the baby monitor going off." M.G. removed W.B. from his crib and fed him in the living room until he fell asleep.

M.G. heard Boggs calling her name. She did not respond. Boggs then "came into the living room upset because his dog needed to be let out." Boggs let the dog outside and

then "slammed the door when the dog came back in," waking W.B. M.G. tried to get W.B. back to sleep. Boggs stated "angrily," "No, it's okay, [W.B]. You can be awake. Everyone else is awake; you might as well be." "[T]hat fully woke up" W.B. Boggs returned to the bedroom to go back to sleep.

M.G. entered the bedroom and gave W.B. to Boggs, who was lying in bed. M.G. stated to Boggs, "If you want [W.B.] to be awake, you can be awake together. I'm going back to sleep."

M.G. lay back down on the living room couch. M.G. heard Boggs calling her name repeatedly. Boggs "then came out into the living room holding" W.B. in one arm. Using his free hand, Boggs "picked [M.G.] up either by [her] arm or by the sleeve of [her] shirt," "lifted [her] over" the ottoman next to the couch, and "dropped [her] on the floor." M.G.'s arm hurt and was "red for a while." Boggs returned to the bedroom with W.B.

M.G. called 911 because she did not know "if [Boggs] would continue to act violent." Officers arrived around five minutes after M.G. called 911. They found M.B. crying and upset. The first officer on scene testified that M.G.'s shirt had "a twist in it . . . like somebody had grabbed it." The second officer spoke to Boggs, who was holding W.B. Boggs told the officer that he and M.G. had an argument but that nothing "physical happened." The officer testified that Boggs and W.B. were both "very calm."

M.G. obtained an order for protection (OFP) against Boggs and moved out shortly after the incident.

Boggs testified and denied most of the aspects of M.G.'s testimony. Rather, Boggs claimed that he remembered waking up to a "hysterical" M.G. handing him W.B. before

Boggs followed M.G. into the living room. Boggs testified that M.G. said, "'I'm calling the police' and . . . that [Boggs] had hit her."

Boggs—who is six feet six inches tall and 180 pounds—suggested that he could not have picked up M.G. because he had "[p]ins and plates in [his] left arm" and "sternum reconstruct[ion]." Boggs testified that he had "limited mobility" in his left arm and that it was "very painful" to lift "anything over 10 or 15 pounds" "long-term." M.G.—five feet three inches tall and 140 pounds during the incident—testified that Boggs's ability to lift seemed unaffected. M.G. testified that Boggs worked in "trades jobs" that required lifting and that he often worked out and lifted weights.

The jury found Boggs guilty of domestic assault—fear but acquitted him of domestic assault—harm and disorderly conduct. The district court sentenced Boggs to 90 days in jail stayed for one year. This appeal followed.

DECISION

Sufficiency of the evidence of intent

Boggs argues that the circumstantial evidence of his intent was insufficient to prove him guilty of domestic assault—fear. Whoever commits an act against a family or household member "with intent to cause fear in another of immediate bodily harm or death" is guilty of domestic assault—fear. Minn. Stat. § 609.2242, subd. 1(1). The intent element requires the defendant to have the "purpose" of causing fear of immediate bodily harm or death or to "believe[] that the act, if successful, will cause" such fear. *See* Minn. Stat. § 609.02, subd. 9(4) (2020); *see State v. Fleck*, 810 N.W.2d 303, 308-09 (Minn. 2012) (stating that assault—fear is a specific-intent crime, which requires a showing of intent to

cause a particular result). "Bodily harm" includes "physical pain or injury" and "any impairment of physical condition." Minn. Stat. § 609.02, subd. 7 (2020).

"Intent is . . . generally proved . . . by drawing inferences" from the evidence such as the victim's reaction, the type of crime, the events surrounding the crime, the relationship between the defendant and the victim, the defendant's words and actions, and "the idea that a person intends the natural consequences of his or her actions." *Stiles v. State*, 664 N.W.2d 315, 320 (Minn. 2003); *State v. Williams*, 593 N.W.2d 227, 236 (Minn. 1999 (relationship evidence important to show intent)); *State v. Smith*, 825 N.W.2d 131, 136-37 (Minn. App. 2012) (victim's reaction is circumstantial evidence showing intent), *rev. denied* (Minn. Mar. 19, 2013); *In re Welfare of T.N.Y.*, 632 N.W.2d 765, 769 (Minn. App. 2001) (character of and events surrounding crime relevant to show intent). Here, the state proved intent using circumstantial evidence.

When the state uses circumstantial evidence to prove an element of a crime, a reviewing court applies "a heightened two-step standard" of review to the sufficiency of the evidence. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). We first "identify the circumstances proved," disregarding evidence inconsistent with the verdict. *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017) (quotation omitted). We then "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt." *Loving*, 891 N.W.2d at 643 (quotation omitted); *see also State v. Collins*, 580 N.W.2d 36, 44 (Minn. App. 1998) ("[F]or a conviction requiring specific intent to stand, such intent must be the only reasonable inference when the evidence as a whole is viewed in the light most favorable to the state."), *rev. denied* (Minn.

July 16, 1998). We "give no deference to the jury's choice between reasonable inferences." *Harris*, 895 N.W.2d at 601.

The circumstances proved include (1) Boggs lifted M.G. by her arm or her shirt and dropped her; (2) Boggs was holding W.B.; (3) Boggs is significantly larger than M.G.; (4) M.G.'s arm hurt and was "red for a while"; (5) M.G. called 911 because she did not know "if [Boggs] would continue to act violent"; (6) responding officers found M.G. crying and upset; (7) an officer observed that M.G.'s shirt had "a twist in it . . . like somebody had grabbed it"; (8) M.G. moved out after the incident; and (9) M.G. got an OFP protecting her from Boggs.

We conclude that an inference of intent is the only reasonable one to be drawn from the circumstances proved. Given the character of Boggs's acts, especially with the size disparity between him and M.G., the natural and probable result of Boggs's acts was causing M.G. fear of immediate bodily harm from being grabbed, lifted, and dropped, and of potentially further violence. In fact, M.G. described Boggs's conduct as "violent."

Moreover, M.G.'s reaction of calling 911, subsequent move-out, and OFP against Boggs lead only to the inference that Boggs actually caused M.G. to fear immediate bodily harm. Relationship evidence of Boggs's frequent anger toward M.G., including the wall- and bed-punching incidents, also support the inference that Boggs would have expected to cause M.G. fear of immediate bodily harm from lifting and dropping M.G. but did so anyway, even while holding W.B.

Boggs asserts that based on his words, his demeanor, and the circumstances before and after the incident, there are reasonable hypotheses that he "was trying to wake up M.G.

or . . . discuss their joint child." But Boggs fails to show a reasonable inference that he did not intend to cause fear of immediate bodily harm to M.G. If anything, Boggs's argument demonstrates that he tried forcing M.G. to get up and take W.B. *by causing her fear of immediate bodily harm* so that Boggs could return to sleep. As such, the circumstantial evidence of intent is sufficient.

Legal consistency of verdicts

Alternatively, Boggs argues that the guilty verdict of domestic assault—fear is legally inconsistent with acquitting him of domestic assault—harm and disorderly conduct. "Whether verdicts are legally inconsistent is a question of law reviewed de novo." *State v. Laine*, 715 N.W.2d 425, 434-35 (Minn. 2006).

Boggs specifically argues that because the jury acquitted him of domestic assault—harm, it must have rejected evidence that Boggs lifted and dropped M.G. Boggs claims that if the jury credited M.G.'s testimony that he committed this act, it "would have had to find that this act was committed with intent and convict" Boggs of domestic assault—harm. Boggs is incorrect.

An acquittal on one count and a finding of guilty on another count can be logically inconsistent, but cannot be legally inconsistent. *Id.* at 435. "Legal inconsistency occurs only when proof of the elements of one offense negates a necessary element of another offense." *State v. Christensen*, 901 N.W.2d 648, 651 (Minn. App. 2017) (quotation omitted). "A legally inconsistent verdict requires that two guilty verdicts be mutually exclusive." *Id.*

Here, even if the guilty verdict of domestic assault—fear was logically inconsistent with acquitting Boggs of domestic assault—harm and disorderly conduct, the jury found Boggs guilty of only one charge. The jury could have done this under its power of lenity to limit his punishment. *See State v. Newman*, 408 N.W.2d 894, 898 (Minn. App. 1987) (stating jury has power of lenity to return verdict of not guilty despite law and facts of the case), *rev. denied* (Minn. Aug. 19, 1987). Because the jury did not render multiple guilty verdicts, its verdicts are legally consistent. *See State v. Leake*, 699 N.W.2d 312, 326 (Minn. 2005) (holding that logical inconsistency—between a verdict of acquittal on one count and a verdict of guilty on another count—does not warrant new trial).

Affirmed.