

*This opinion is nonprecedential except as provided by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
A23-1254**

State of Minnesota,
Appellant,

vs.

Terry Izeal Heggs,
Respondent.

**Filed July 22, 2024
Affirmed in part, reversed in part, and remanded
Bjorkman, Judge**

Mower County District Court
File No. 50-CR-22-2267

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

Kristen Nelsen, Mower County Attorney, Heather Kjos Schmit, Austin, Minnesota (for appellant)

Anders J. Erickson, Johnson Erickson Criminal Defense, Minneapolis, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Bjorkman, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant State of Minnesota challenges the district court's grant of a judgment of acquittal after a jury returned guilty verdicts against respondent Terry Izeal Heggs on

charges of failing to register as a predatory offender and domestic assault. We affirm with respect to the domestic-assault charge, but we reverse with respect to the predatory-offender registration charge and remand for entry of a judgment of conviction based on the guilty verdict.

FACTS

Shortly before 8:00 a.m. on November 19, 2022, a 911 hang-up call was placed from a restaurant in Austin. Before the call disconnected, dispatchers could hear arguing and yelling. When the responding officers arrived, the restaurant was not yet open to the public, but they heard arguing and screaming inside, so they entered. They first encountered Heggs, who was in the kitchen area wearing only a T-shirt and boxer shorts and covered in flour. A sock was on the floor near Heggs and flour covered a large area of the floor. In the next room they encountered S.W., who was in an intimate relationship with Heggs and, like him, worked at the restaurant. S.W. was intoxicated and visibly “upset.” The officers noted that she had a bloody lip, had blood on her sweatshirt, was covered in flour, and was missing a sock. The officers could see “flour from her” on the edge of the freezer next to where she was standing. Nobody else was in the restaurant.

While inside, the officers observed a back room that looked like “living quarters.” The room contained a bed with rumpled sheets and blankets, multiple other items of furniture, a television, and several items of men’s clothing. A later warranted search revealed additional men’s clothing, including undergarments, and shoes; a speaker system; personal care items such as razors, hair products, and deodorant; and an iron, laundry basket, and other domestic items. The officers also found a suitcase containing a “good

amount of documents,” both mail and personal documents, with Heggs’s name on them; similar personal documents related to Heggs were “scattered throughout the living area.”

Because these items are not commonly found in a workplace break room, the officers believed that Heggs was living at the restaurant. And because Heggs is required to register as a predatory offender, including registering any secondary addresses where he stays overnight at least occasionally, the officers checked to see if Heggs had registered the restaurant as a secondary address. They discovered that in October 2022 Heggs changed his registered primary residence from Austin to Albert Lea and listed the Austin restaurant as his place of employment but did not register it as a secondary address.

Heggs was charged with failing to register as a predatory offender and domestic assault-harm, both enhanced because of prior qualifying convictions.¹ Following a three-day trial, a jury found him guilty of both offenses. Heggs moved for a judgment of acquittal, which the district court granted, reasoning that the state had offered only circumstantial evidence of both offenses and that evidence does not preclude rational inferences inconsistent with guilt.

The state appeals.

DECISION

The state may appeal “from a judgment of acquittal by the district court entered after the jury returns a verdict of guilty.” Minn. R. Crim. P. 28.04, subd. 1(5). Because a motion

¹ Heggs was also charged with violating a domestic-abuse no-contact order and interference with an emergency call. But the district court granted Heggs’s motion for a directed verdict on those counts after the close of the state’s evidence, and that decision is not at issue in this appeal.

for judgment of acquittal presents a question of law regarding the sufficiency of the evidence, our review is de novo. *State v. McCormick*, 835 N.W.2d 498, 506 (Minn. App. 2013), *rev. denied* (Minn. Oct. 15, 2013).

A motion for a judgment of acquittal “is properly denied where the evidence, viewed in the light most favorable to the state, is sufficient to sustain a conviction.” *State v. DeLaCruz*, 884 N.W.2d 878, 890 (Minn. App. 2016). Where, as here, a guilty verdict rests entirely or largely on circumstantial evidence, we review the sufficiency of the evidence under a two-part standard. *McCormick*, 835 N.W.2d at 506. First, we determine what factual circumstances the state proved. *Id.* This involves “winnow[ing] down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict, resulting in a subset of facts that constitute the circumstances proved.” *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017) (quotation omitted). Second, we independently evaluate those circumstances to determine whether they are consistent with guilt and inconsistent with any reasonable inference other than guilt. *McCormick*, 835 N.W.2d at 506. “[T]here is sufficient evidence to sustain a conviction if and only if no other reasonable, rational inferences exist that are inconsistent with guilt.” *State v. Sam*, 859 N.W.2d 825, 831 (Minn. App. 2015) (quotation omitted).

I. Sufficient circumstantial evidence proves that Heggs failed to register as a predatory offender.

To convict Heggs of the registration offense, the state was required to prove that he (1) was required to register; (2) was given notice, knew, or reasonably should have known of the duty to register; (3) was “regularly or occasionally stay[ing] overnight” at the

restaurant “when not staying at [his] primary address,” making it a “secondary address” for him; (4) “knowingly” failed to fulfill the requirement that he provide this secondary address to law enforcement; and (5) was previously convicted of failure to comply with predatory-offender registration requirements. Minn. Stat. § 243.166, subds. 1a(a)(j), 4a(a), 5(a)(1), (c) (2022). Only the third of these elements—whether Heggs regularly or occasionally stayed overnight at the restaurant—is in dispute.

Viewing the evidence in favor of the jury’s verdict, the state proved the following circumstances. A back room of the restaurant where Heggs worked contained a bed that appeared to have been recently used, other furniture and domestic items, many items of men’s clothing and shoes, and an array of men’s personal-care products. There was also a suitcase full of mail and other personal documents bearing Heggs’s name, as well as similar documents scattered around the “living” space. These are not the types of items normally found in a workplace break room. Heggs was alone (except for S.W.) in the restaurant outside of working hours, clad only in a T-shirt and boxer shorts. And his primary address was in another city.

Heggs asserts that these circumstances “suggest, at most, that [he] worked at the restaurant, and possibly stayed overnight the night before he was arrested.” Alternatively, he asserts that the circumstances do not disprove a reasonable inference that Heggs stayed overnight at the restaurant for one or two nights, which is distinct from regularly or occasionally. Neither argument is availing.

Given the nature and volume of personal property in the break room, the only reasonable inference is that a man was regularly staying overnight in that room, had been

doing so for some time, and planned to continue doing so. And given Heggs’s presence in the restaurant outside of working hours, his state of undress, the restaurant’s distance from his primary address, and the large volume and dispersion of personal documents bearing his name, the only reasonable inference is that Heggs was the man staying there regularly. As such, sufficient evidence supports the jury’s determination that Heggs is guilty of failing to register as a predatory offender, and the district court erred by granting judgment of acquittal as to that charge.

II. The record lacks sufficient circumstantial evidence to prove that Heggs committed domestic assault against S.W.

A person commits domestic assault when (1) they intentionally cause or attempt to cause another bodily harm, meaning “physical pain or injury, illness, or any impairment of physical condition”; (2) the other person is a family or household member, which includes a person with whom they are “involved in a significant romantic or sexual relationship”; and (3) they have a prior qualifying conviction. Minn. Stat. § 609.2242, subs. 1(2), 2 (2022); *see* Minn. Stat. §§ 518B.01, subd. 2(b)(7) (defining family or household member), 609.02, subd. 7 (defining bodily harm) (2022). Again, only one of these elements is disputed—whether Heggs intentionally inflicted bodily harm on S.W.

The intent element “is generally proven by circumstantial evidence.” *State v. Lampkin*, 994 N.W.2d 280, 291 (Minn. 2023). Assault-harm is a general-intent crime, meaning the state need not prove that the actor intended the harm, but only that he “intentionally applied force to another person without her consent.” *Id.* (quotation omitted).

S.W. testified about what happened between her and Heggs at the restaurant, and the responding officers testified about their observations and interactions with her. Viewing their testimony in the light most favorable to the jury's verdict, the state proved the following circumstances. Heggs and S.W. were arguing "face to face," and it became "physical" in some unspecified way. At some point, S.W. called 911 because she "didn't want it to escalate," but the call ended without S.W. reporting anything, and they continued fighting. During the fight, Heggs threw flour "up" in the air, which covered both him and S.W. and a large portion of the floor. Also during the fight, S.W. fell to the floor, lost a sock, came into contact with the freezer, incurred a bloody lip, and got blood on the shoulder of her sweatshirt. S.W. explained that the bloody lip was from her falling and that she fell "due to the flour being thrown." After the fight, S.W. was visibly intoxicated and upset.

These circumstances are reasonably consistent with guilt insofar as it is conceivable that, during the "physical" fighting, Heggs applied unwanted force to S.W., causing her to fall and sustain bodily harm in the form of a bloody lip. But the circumstances do not preclude the reasonable possibility that S.W. merely slipped in the flour and fell down, making the fall accidental and not a result of any physical contact from Heggs. Because the circumstances proved are consistent with a reasonable inference other than guilt, the circumstantial evidence is insufficient to prove that Heggs committed domestic assault.

In sum, we affirm the judgment of acquittal for the domestic-assault charge but reverse the judgment of acquittal for failure to register. Accordingly, we remand for the

district court to reinstate the jury's guilty verdict and enter a judgment of conviction for the registration offense.

Affirmed in part, reversed in part, and remanded.