

*This opinion is nonprecedential except as provided by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
A23-1327**

State of Minnesota,
Respondent,

vs.

Anthony Lee Williams,
Appellant.

**Filed September 9, 2024
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CR-22-25929

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

Considered and decided by Ede, Presiding Judge; Cochran, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal, appellant challenges his conviction of second-degree assault. He argues that the evidence is insufficient to support the conviction. In the alternative, appellant challenges his sentence, arguing that the district court abused its discretion when

it calculated his criminal-history score. We conclude that the evidence was sufficient to support the conviction and we discern no error in the district court's calculation of the criminal-history score. We therefore affirm.

FACTS

Following a disturbance at an auto-parts store in Minneapolis, respondent State of Minnesota charged appellant Anthony Lee Williams with first-degree aggravated robbery in violation of Minnesota Statutes section 609.245, subdivision 1 (2022), and second-degree assault (fear) in violation of Minnesota Statutes section 609.222, subdivision 1 (2022).¹ The complaint alleged that Williams stole items from the auto-parts store and, after employees intervened, he brandished a knife, threatened to stab the store's manager, and then left the premises. The case proceeded to a jury trial, at which the following evidence was presented.

The store manager observed a man, later identified as Williams, arguing with an employee in the store. The manager overheard Williams tell the employee, "That's how people get hurt." Hoping to defuse the situation, the manager intervened and asked Williams to leave the store. In response, Williams asserted that he had not stolen anything. After the manager continued to urge him to leave, Williams got in the manager's face, asked him to meet him outside, and told him that he would hurt him. Shortly after, the

¹ The state also charged Williams with felony threats of violence in violation of Minnesota Statutes section 609.713, subdivision 1 (2022), and theft in violation of Minnesota Statutes section 609.52, subdivision 2(a)(1) (2022). The state voluntarily dismissed those charges before trial.

manager opened a door at the front of the store, which led to a vestibule. Williams went through the door and into the vestibule.

An alarm that tracks store merchandise sounded as Williams passed through the store's security gates. The manager said to Williams, "I thought you didn't take nothing." Williams, who was still in the vestibule, became more aggressive, pulled out a knife, and "started waving it around on [the manager]." Williams swung the knife within three feet of the manager. The manager closed the interior door and shielded himself behind it in case Williams attacked him. Williams then exited through the exterior set of doors and got into a car, which drove away. After Williams left, the manager locked the store's doors because he feared that Williams "was going to come back or do something with one of [the employees]."

A video recording of the incident was admitted as an exhibit. While the video recording was played for the jury, the manager described the events it depicted. Among other things, he explained that the video recording shows Williams "pull[ing] out a knife and [] swinging" it while in the vestibule. Stills from the video recording in which Williams's knife is visible were also admitted as exhibits. The stills and video show Williams holding a folding knife. From the stills and video, it also appears that the blade of the knife is about two to three inches long and approximately one inch wide, narrowing to a pointed tip.

A sergeant with the robbery-investigations unit of the Minneapolis Police Department reviewed the video recording during his investigation. The sergeant testified that the video shows Williams pulling out a knife in the store's vestibule. The sergeant

also testified that robberies are often committed with weapons, including knives. The sergeant added that knives can cause death, and he affirmed that “there is risk involved when a knife is involved in a robbery.”

The jury found Williams guilty of second-degree assault (fear) and not guilty of first-degree aggravated robbery. During sentencing, the district court relied on Williams’s criminal-record summary, which indicated that Williams had a criminal-history score of four. Of that, three points were for two prior convictions of possession of a controlled substance. The district court sentenced Williams to the presumptive sentence based on his criminal-history score of four—an executed, 45-month prison sentence.

This appeal follows.

DECISION

Williams argues that the evidence introduced at trial was insufficient to support his conviction of second-degree assault (fear). He contends that his conviction must be reversed because the evidence at trial failed to establish beyond a reasonable doubt the following elements of the crime: (1) that he intended to cause the manager to fear immediate bodily harm and (2) that he wielded a dangerous weapon. In the alternative, Williams contends that we should reverse and remand for resentencing because the district court erred in its calculation of his criminal-history score. We address Williams’s arguments in turn.

I. The evidence is sufficient to support Williams’s conviction of second-degree assault.

In a criminal trial, due process requires that the state prove each element of a charged offense beyond a reasonable doubt. *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023). To be convicted of second-degree assault (fear) under section 609.222, subdivision 1, the state was required to prove that Williams “assault[ed] another with a dangerous weapon.” Williams argues that the trial evidence is insufficient to prove beyond a reasonable doubt that he committed an “assault” or used “a dangerous weapon.”

When considering a challenge to the sufficiency of the evidence, we conduct “a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the jury to reach its verdict.” *Lapenotiere v. State*, 916 N.W.2d 351, 360-61 (Minn. 2018) (quotation omitted). In performing this review, we assume that the jury disbelieved any evidence that conflicts with the verdict. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

When proof of an offense, or any element of that offense, is based on circumstantial evidence, we apply a heightened standard of review to determine whether the evidence is sufficient. *State v. Loveless*, 987 N.W.2d 224, 247 (Minn. 2023). Circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted).² The circumstantial-evidence standard of review

² By contrast, 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. Jones*, 4 N.W.3d 495, 501 (Minn. 2024) (quotation omitted).

involves two steps. *State v. Westrom*, 6 N.W.3d 145, 158 (Minn. 2024). First, we identify the “circumstances proved, winnowing down the evidence presented at trial to a subset of facts consistent with the jury’s verdict.” *Id.* During this step, we “disregard[] evidence inconsistent with the verdict.” *Id.* Second, we “independently examine the reasonable inferences that can be drawn from the circumstances proved, when viewed as a whole.” *Id.* at 158-59. “To sustain [a] conviction, the circumstances proved, when viewed as a whole, must be consistent with a reasonable inference that the accused is guilty and inconsistent with any rational hypothesis except that of guilt.” *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017).

Williams argues that the circumstantial-evidence standard applies to his challenges to the sufficiency of the evidence because the applicable definitions of “assault” and a “dangerous weapon” both involve intent. “Intent is a state of mind, and therefore, it is generally proved circumstantially—by drawing inferences from the defendant’s words and actions in light of the totality of the circumstances.” *Jones*, 4 N.W.3d at 501 (quotation omitted). “[D]irect evidence of intent is rare.” *Id.* (quotation omitted). As relevant here, an “assault” is “an act done with *intent* to cause fear in another of immediate bodily harm or death.” Minn. Stat. § 609.02, subd. 10(1) (2022) (emphasis added). And a “dangerous weapon” is any “device or instrumentality that, in the manner it is used or *intended* to be used, is calculated or likely to produce death or great bodily harm.” Minn. Stat. § 609.02, subd. 6 (2022) (emphasis added).³

³ Section 609.02 also defines a “dangerous weapon” as “any firearm . . . or any device designed as a weapon and capable of producing death or great bodily harm.” Minn. Stat.

In this case, the state relied on circumstantial evidence to prove that Williams (1) intended to cause the store manager to fear immediate bodily harm or death and (2) intended to use the knife in a manner calculated or likely to produce death or great bodily harm. Accordingly, we apply the heightened circumstantial-evidence standard of review in our analysis of whether the evidence was sufficient to prove the disputed elements of Williams's conviction.

Our first step is to identify the circumstances proved by “winnowing down the evidence presented at trial to a subset of facts consistent with the jury’s verdict.” *Westrom*, 6 N.W.3d at 158. Here, the circumstances proved are that (1) the manager witnessed Williams arguing with an employee near the cash register and heard him say, “That’s how people get hurt”; (2) the manager told Williams to leave the store; (3) Williams argued with the manager, telling the manager that he would hurt him and challenging him to come outside with him; (4) the anti-theft alarm sounded as Williams exited the store into the vestibule, which led to the manager and Williams moving to the store’s vestibule where they continued to argue; (5) Williams brandished a knife and waved it around within three feet of the manager; (6) the knife’s blade was approximately two to three inches long and had a pointed end; and (7) the manager felt threatened, shielded himself with the glass door, and locked the door once Williams left.

§ 609.02, subd. 6(1). Because the intended-use definition is dispositive here, we need not address the parties’ competing arguments regarding whether there was sufficient evidence that the knife was “designed as a weapon.”

Williams argues that the circumstances proved at trial are consistent with rational inferences other than guilt, and therefore the evidence is insufficient to support his conviction. We separately address Williams’s arguments regarding the “assault” and “dangerous weapon” elements of his conviction and conclude that the circumstances proved are “inconsistent with any rational hypothesis except that of guilt.” *Harris*, 895 N.W.2d at 601.

Assault

We begin our analysis by addressing whether the evidence at trial was sufficient to prove beyond a reasonable doubt that Williams assaulted the store manager. As discussed above, to prove that Williams committed assault (fear), the state needed to prove beyond a reasonable doubt that Williams acted “with intent to cause fear in another of *immediate* bodily harm or death.” Minn. Stat. § 609.02, subd. 10(1) (emphasis added).

Viewed as a whole, the circumstances proved are consistent with a reasonable inference that Williams intended to cause the manager to fear immediate bodily harm. A jury “may infer that a person intends the natural and probable consequences of that person’s actions.” *State v. Colgrove*, 996 N.W.2d 145, 152 (Minn. 2023). Here, the natural and probable consequence of Williams’s actions—including telling the manager that he would hurt him, brandishing a knife, and then swinging and pointing the knife at the manager—was the manager fearing that Williams was going to attack him with the knife and cause immediate bodily harm.

We next consider Williams’s argument that there is a rational inference other than that he intended to cause fear of immediate bodily harm. According to Williams, the

circumstances proved show that any threat of injury was not “immediate,” and therefore was not sufficient to meet the controlling definition of assault. *See* Minn. Stat. § 609.02, subd. 10(1). To support his argument, Williams relies on the manager’s testimony that “[Williams] told me he knew what time I got out and where I work.” Williams maintains that this testimony shows that any threat was of a future “confrontation after [the manger] got off work,” and therefore was not immediate.

We conclude this argument is unavailing because it impermissibly relies upon evidence that is inconsistent with the jury’s verdict. Under the circumstantial-evidence test, we consider only the circumstances proved to determine whether there is a rational alternative hypothesis to guilt. *See Harris*, 895 N.W.2d at 601. And the supreme court has instructed that the circumstances proved are the “subset of facts *consistent with the jury’s verdict*.” *Westrom*, 6 N.W.3d at 158 (emphasis added). Here, the evidence that Williams relies on to support his argument that the threat of harm was not immediate is inconsistent with the jury’s verdict because, by convicting Williams of second-degree assault (fear), the jury necessarily found that Williams intended to place the manager in fear of “immediate” bodily harm or death. *See* Minn. Stat. §§ 609.02, subd. 10(1), .222, subd. 1. Thus, we must disregard the evidence on which Williams relies to support his argument.

Williams also understates the totality of the circumstances proved, which show that he brandished a knife, waved it around and pointed it at the manager after they had an argument, and threatened to hurt the manager. When assessing the reasonable inferences from the circumstances proved, we must consider those circumstances proved “*as a whole*.” *State v. Allwine*, 963 N.W.2d 178, 186 (Minn. 2021). Considering the

circumstances proved as a whole, the only rational inference is that Williams intended to place the manager in fear of immediate bodily harm. There is no alternative rational hypothesis.

*Dangerous Weapon*⁴

We next consider whether the evidence at trial was sufficient to prove beyond a reasonable doubt that the knife brandished by Williams meets the statutory definition of a “dangerous weapon” as used in the second-degree assault statute. The definition of “dangerous weapon” for purposes of this offense includes any “device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.” Minn. Stat. §§ 609.02, subd. 6, .222, subd. 1.

We conclude that the only rational inference to draw from the circumstances proved is that Williams intended to use the knife as a dangerous weapon. “When determining whether an object . . . is a dangerous weapon, the [fact-finder] must examine not only the nature of the object itself, but also the manner in which it was used.” *State v. Abdus-Salam*, 1 N.W.3d 871, 879 (Minn. 2024) (quotation omitted). The circumstances proved include Williams arguing with and threatening the manager, brandishing a knife, and pointing the knife at the manager. These circumstances are consistent only with the inference that Williams intended to use the knife as a dangerous weapon amid an escalating conflict with

⁴ The state asserts that Williams did not argue that the knife was not a dangerous weapon below and has therefore forfeited the issue on appeal. But the forfeiture doctrine is typically not applicable in challenges to the sufficiency of the evidence, which “raise[] essentially the same argument on appeal that [was] presented to the jury at trial: that [the defendant] was not guilty of a crime.” *State v. Pakhnyuk*, 926 N.W.2d 914, 918-19 (Minn. 2019). We therefore address Williams’s dangerous-weapon argument on the merits.

the manager. *See State v. Moss*, 269 N.W.2d 732, 736 (Minn. 1978) (holding that evidence supported inference that defendant intended to use scissors during a robbery if their use became necessary, making the scissors a dangerous weapon).

Williams argues that a reasonable alternative inference from these circumstances is that he brandished the knife only to facilitate his departure from the store. Williams asserts that, based on the circumstances proved, the jury could reasonably infer that he intended to use the knife only to intimidate the manager—not to harm the manager. Considering the circumstances proved as a whole, we conclude that this inference is not reasonable. *See Westrom*, 6 N.W.3d at 158-59 (noting that the inferences drawn from the circumstance proved must be reasonable). Before Williams pulled out his knife, the manager implored Williams to leave the store, and no one attempted to physically stop Williams from leaving after the alarm sounded. Because there was no one obstructing Williams from departing, it is unreasonable to infer that Williams intended to use the knife to scare the manager and facilitate his departure.

The only reasonable inference from the circumstances proved is that Williams intended to use the knife as a dangerous weapon. We reject Williams's alternative hypothesis because it is not rational. Thus, the evidence sufficiently supports the jury's finding that Williams assaulted the manager with a dangerous weapon.

II. The district court did not err in calculating Williams's criminal-history score.

Finally, Williams argues that the district court erred by assigning one-and-one-half points to each of his prior drug-possession convictions. A sentence based on an incorrect criminal-history score is an illegal sentence and can be corrected at any time. *State v.*

Maurstad, 733 N.W.2d 141, 147 (Minn. 2007). This court reviews a district court’s criminal-history-score calculation for an abuse of discretion. *State v. Brown*, 937 N.W.2d 146, 157 (Minn. App. 2019), *rev. denied* (Minn. Feb. 18, 2020). “But, if the issue of the correct criminal-history score turns on an interpretation of the sentencing guidelines or of a statute, we apply a de novo standard of review.” *State v. Morgan*, 953 N.W.2d 729, 732 (Minn. App. 2020), *aff’d*, 968 N.W.2d 25 (Minn. 2021). “We apply the same principles of interpretation to the Guidelines as we apply to statutes, including the canons of statutory interpretation set forth in Minn. Stat. 645.08 [(2022)].” *State v. Strobel*, 932 N.W.2d 303, 306-07 (Minn. 2019).

The Minnesota Sentencing Guidelines establish presumptive prison-sentence durations for offenders for whom imprisonment is proper. Minn. Stat. § 244.09, subd. 5(2) (2022). The presumptive sentence is determined by the guidelines in effect on the date of the offense at issue. Minn. Sent’g Guidelines 2 (2022). The guidelines contain grids used for calculating a presumptive sentence. Minn. Sent’g Guidelines 4.A (2022). The presumptive sentence lies in the cell at the intersection of the severity level for the current offense and the offender’s criminal-history score. *Id.* An offender’s criminal-history score is the sum of points assigned from, among other things, various prior offenses. Minn. Sent’g Guidelines 2.B (2022). The point value assigned for a prior offense is determined by assessing its severity level as set forth in the applicable guidelines. Minn. Sent’g Guidelines 2.B.1.a (2022). “The severity level ranking in effect at the time the current offense was committed determines the weight assigned to the prior offense.” Minn. Sent’g Guidelines 2.B.1 (2022).

Here, the prior offenses at issue are Williams's 2008 conviction of third-degree possession of a controlled substance and his 2015 conviction of second-degree possession of a controlled substance. Under the 2022 guidelines, the severity levels of second- and third-degree possession of a controlled substance are D7 and D6, respectively. Minn. Sent'g Guidelines 5.A (2022). And D7 and D6 offenses are each assigned one-and-one-half points under the 2022 guidelines. Minn. Sent'g Guidelines 2.B.1.a. Thus, the district court assigned Williams three points for his two prior controlled-substance-possession offenses.

Williams argues that this calculation is incorrect because his prior offenses, both of which involved possession of cocaine, "are equivalent to fifth-degree possession of a controlled substance under current law." Williams bases his argument on the 2016 Drug Sentencing Reform Act (DSRA). The DSRA increased the possession threshold for controlled-substance crimes committed on or after August 1, 2016. 2016 Minn. Laws. ch. 160, §§ 3-5, at 577-85 (codified at Minn. Stat. §§ 152.021-.023 (2016)). Prior to the DSRA, possession of more than six grams of cocaine met the definition for a second-degree controlled substance crime and possession of more than three grams of cocaine met the definition for a third-degree controlled substance crime. Minn. Stat. §§ 152.022, subd. 2(a)(1), .023, subd. 2(a)(1) (2014). But, after the DSRA's enactment, those thresholds rose to 25 and 10 grams, respectively. 2016 Minn. Laws. ch. 160, §§ 4-5, at 579-82 (codified at Minn. Stat. §§ 152.022, subd. 2(a)(1), .023, subd. 2(a)(1) (2016)).

Williams's 2008 conviction involved 5.2 grams of cocaine, and his 2015 conviction involved 8.6 grams of cocaine. Because those quantities fail to meet the post-DSRA

thresholds for second- or third-degree controlled substance offenses, Williams asserts that both prior offenses would be punishable as only fifth-degree controlled substance crimes under current law. *See* Minn. Stat. § 152.024, subd. 2 (2022). Under the 2022 guidelines, fifth-degree possession carries a severity level of D2, which corresponds to a point value of just one-half of one point. Minn. Sent’g Guidelines 2.B.1.a, 5.A. On this basis, Williams argues that he should have received a total of just one criminal-history point, instead of three points, for his 2008 and 2015 drug-possession offenses. We disagree.

Even if Williams is correct that his prior offenses, if committed today, would only be punishable as fifth-degree controlled substance crimes, his argument is unavailing. To support his argument, Williams relies mainly on *Strobel*, 932 N.W.2d 303. In *Strobel*, the defendant was convicted of a drug offense in 2016. 932 N.W.2d at 305. At the time of his conviction, the defendant had a prior conviction of fifth-degree possession of a controlled substance from 2012. *Id.* In 2012, fifth-degree possession was classified as a felony offense. *Id.* But, after the DSRA’s enactment in 2016, certain fifth-degree possession offenses were reclassified as gross misdemeanors. *Id.* The defendant’s criminal-history score included one-half of one point on account of his 2012 felony conviction of fifth-degree possession. *Id.* The defendant argued on appeal that, under the guidelines in effect at the time of his most recent offense, his prior offense should have been classified as a misdemeanor rather than a felony for purposes of calculating his criminal-history score. *Id.* at 306. The supreme court agreed, applying section 2.B.7.a of the guidelines, which concerns the classification of a prior offense. *Id.* at 308. Section 2.B.7.a provides that “[t]he classification of a prior offense as a . . . gross misdemeanor[] or felony is

determined by current Minnesota offense definitions.” *Id.* at 308-09 (emphasis omitted) (quoting Minn. Sent’g Guidelines 2.B.7a (2018)).⁵ Thus, the supreme court agreed with the defendant, concluding that the district court should apply the present-offense classification rather than the pre-DSRA classification. *Id.* at 309-10.

The supreme court’s reasoning in *Strobel* does not apply here because Williams does not argue that his prior offenses should be classified as misdemeanors instead of felonies. Rather, Williams’s argument is based on changes to the elements of the offenses themselves, i.e., the weight thresholds for second- and third-degree controlled substance possession crimes. And Williams cites no authority to support his contention that the district court should have applied those revised elements to the facts of Williams’s prior offenses to determine his criminal-history score.⁶

Unlike the offense-classification determination at issue in *Strobel*, nothing in the guidelines requires, nor authorizes, a district court to determine whether the underlying facts of a prior offense match the elements of another crime under current law. Instead, the guidelines plainly provide that “[t]he severity level ranking in effect at the time the current offense was committed determines the weight assigned to the prior offense.” Minn. Sent’g Guidelines 2.B.1. Under the guidelines applicable at the time of the current offense,

⁵ The 2018 and 2022 versions of section 2.B.7.a are identical. *Compare* Minn. Sent’g Guidelines 2.B.7.a (2018), *with* Minn. Sent’g Guidelines 2.B.7.a (2022).

⁶ In fact, as Williams concedes, we have recently rejected this same argument in various nonprecedential decisions. *See, e.g., State v. Haakenstad*, No. A23-0170, 2023 WL 5838528, at *3-4 (Minn. App. Sept. 11, 2023), *rev. denied* (Minn. Jan. 16, 2024); *State v. Jacobson*, No. A21-0013, 2021 WL 5767871, at *3-4 (Minn. App. Dec. 6, 2021), *rev. denied* (Minn. Feb. 23, 2022).

Williams's prior convictions of second- and third-degree controlled substance possession were each worth one-and-one-half criminal-history points. The district court therefore did not err in calculating Williams's criminal-history score.

Affirmed