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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1593**

State of Minnesota,
Respondent,

vs.

Daquan Christopher Savon Ledbetter,
Appellant.

**Filed December 30, 2024
Affirmed
Smith, Tracy M., Judge**

Stearns County District Court
File No. 73-CR-22-5516

Keith Ellison, Attorney General, Thomas R. Ragatz, Jacob Campion, Assistant Attorneys General, St. Paul, Minnesota; and

Janelle Kendall, Stearns County Attorney, St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the judgment of conviction for one count of unlawful possession of a firearm and four counts of aiding and abetting attempted first-degree

murder, appellant Daquan Christopher Savon Ledbetter argues that the evidence was insufficient to support his convictions for aiding and abetting attempted murder. We affirm.

FACTS

Ledbetter's convictions stem from his involvement in a shooting that injured four people in the afternoon of July 6, 2022. The following facts were established at trial.

On the day of the shooting, two groups of men and juvenile males gathered in anticipation of a fistfight between L.J. and T.S. to settle a dispute. One group, which included L.J. and the four victims of the shooting, gathered in a park. The second group, which included Ledbetter, Bryant Garth II, and T.S., gathered in the nearby parking lot of an apartment complex.

What happened next was captured on video by a surveillance camera overlooking the parking lot. Around 5:44 p.m. Jamarcus Morris, driving a white Nissan Sentra, arrived at the parking lot. He pulled into a space surrounded by other cars, backed up, turned his vehicle around, backed into the space, and parked so that the car was facing the parking lot's exit. Wearing a mask covering his face, a hooded sweatshirt with the hood over his head, and gloves, Morris got out of the car, shut the car door, and walked to the group that Ledbetter was in.

Quickly thereafter, Morris returned to the car with Ledbetter, Garth, and T.S. Morris walked to the driver's side and opened the front door. Garth walked to the front passenger's side and pulled the door handle, but it was locked. T.S. and Ledbetter both walked to the same rear passenger side of the car. As the four men approached the car,

persons from the other group began taunting them, saying such things as, “They leavin’?” and “What are you doing here? You got beat up already?”

The four men, still standing outside the car, stopped and looked toward the other group. Ledbetter took a few steps away from the car and looked back toward Garth. T.S. also turned toward Garth. Garth reached into his pants pocket, pulled out a pistol, and held the pistol down behind his right leg. Ledbetter and T.S. stepped away from the car, spread apart, and looked again at Garth. Ledbetter moved a cigarette that he was smoking from his right hand to his left and placed his right hand in his pants pocket. Garth started walking briskly past Ledbetter and T.S. and toward the other group, his weapon visible by his side. Ledbetter and T.S. followed. Morris, who was on the driver’s side of the car, left the driver’s door open, pulled out a gun, and started walking briskly toward the other group, passing Ledbetter and T.S. Ledbetter also started walking toward the group, behind and between Garth and Morris. T.S. followed behind Ledbetter.

As Garth and Morris rapidly approached the other group, some of the group’s members started running away. Morris began running toward the group. Either Garth or Morris then began shooting at the group. More members of the group started fleeing. After advancing toward the group, Morris stopped behind some debris in the parking lot, planted his legs, and—shifting his aim several times—continued shooting toward the fleeing group. Meanwhile, Ledbetter, who had followed Garth and Morris toward the group, briefly flinched or ducked down behind a car when the first shot was fired. Ledbetter then stood up and started shooting at the group, advancing several steps toward the group as he was firing and the other group continued to run away. After Ledbetter, Garth, and Morris

had fired a combined 28 shots, they and T.S., who had crouched down and run to the side when the shooting broke out, ran back to Morris's car. Morris unlocked the passenger doors, they all got in the car, and they fled the scene.

The gunshots struck four individuals. The first victim sustained a gunshot wound to his elbow and arm, fracturing a bone. The second victim suffered one gunshot wound to his head and one to his trapezius muscle. The third victim sustained a gunshot wound to his chest, fracturing two ribs and causing a collapsed lung. The fourth victim suffered a gunshot wound to the head. A medical professional testified that the victims were lucky that the gunshots did not cause fatal injuries. Though investigators were unable to identify which shooter's bullets hit which victim, they discovered six shell casings near where Ledbetter had been standing during the shooting.

In an amended criminal complaint, respondent State of Minnesota charged Ledbetter with one count of unlawful possession of a firearm, four counts of aiding and abetting second-degree assault, and four counts of aiding and abetting attempted first-degree murder. *See* Minn. Stat. §§ 624.713, subd. 1(2), 609.222, subd. 1, .185(a)(1), .05, subd. 1, .17, subd. 1 (2020). The jury instructions for the eight counts of aiding and abetting other crimes allowed the jury to convict Ledbetter as a principal or as an accomplice. The jury found him guilty of all nine counts as charged. The district court convicted Ledbetter of the one count of unlawful possession of a firearm and four counts of aiding and abetting attempted first-degree murder. Imposing consecutive sentences, the district court sentenced

Ledbetter to a total of 760 months in prison for the four attempted-murder convictions.¹ When sentencing Ledbetter, the district court commented that it could not “fathom what teenagers possibly could have said or done that would so infuriate grown men that they couldn’t just ignore it and walk away.”

This appeal follows.

DECISION

Ledbetter argues that the state failed to prove beyond a reasonable doubt that he committed attempted first-degree murder as either a principal or an accomplice. Regarding guilt as a principal, Ledbetter argues that the evidence is insufficient because it supports a reasonable alternative hypothesis that he lacked the mental state required to commit attempted first-degree murder of the four specified victims. Regarding guilt as an accomplice, Ledbetter argues that the evidence is insufficient because it supports a reasonable alternative hypothesis that he did not aid and abet attempted first-degree murder because, even assuming that at least one of the other shooters acted with the required mental state (which Ledbetter disputes), Ledbetter lacked knowledge that the other shooters were going to commit a crime and did not intend to aid the other shooters in the commission of the crime. We are not persuaded.

A. Standard of Review

To convict a criminal defendant, the state must prove each element of the charged offense beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364 (1970); *State v.*

¹ The district court also imposed a 60-month sentence for the unlawful-possession conviction, to run concurrently with the first attempted-murder conviction.

Peterson, 673 N.W.2d 482, 486 (Minn. 2004). When evaluating the sufficiency of the evidence to prove the elements, appellate courts view the evidence “in the light most favorable to the verdict, and it must be assumed that the fact-finder disbelieved any evidence that conflicted with the verdict.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

There is no dispute that proof of the challenged elements here relies on circumstantial evidence. Appellate courts “apply heightened scrutiny when reviewing . . . verdicts based on circumstantial evidence.” *State v. Pratt*, 813 N.W.2d 868, 874 (Minn. 2012). In doing so, appellate courts employ a two-step analysis. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012). First, the reviewing court identifies the “circumstances proved.” *Id.* At this step, the reviewing court “defer[s] to the jury’s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State.” *State v. Alarcon*, 932 N.W.2d 641, 648 (Minn. 2019) (quotation omitted). Second, the reviewing court independently examines “the reasonableness of all inferences that might be drawn from the circumstances proved,” giving “no deference to the jury’s choice between reasonable inferences.” *Id.* at 641 (quotations omitted). 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.” *Id.* (quotation omitted). Though an inference inconsistent with guilt need not be the most likely inference, *see State v. Sam*, 859 N.W.2d 825, 831 (Minn. App. 2015), appellate courts “will not overturn a guilty verdict on conjecture alone,” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

B. Aiding and Abetting Attempted First-Degree Murder

A person may be guilty of a crime either by committing the crime as a “principal” or by aiding and abetting another’s commission of a crime as an “accomplice.” *State v. Ezekia*, 946 N.W.2d 393, 407 (Minn. 2020). Aiding and abetting is a theory of liability, not a separate substantive offense. *Id.* Ledbetter argues that the evidence is insufficient to convict him either as a principal or as an accomplice. We begin with the sufficiency of the evidence to sustain his conviction an accomplice.

The jury found Ledbetter guilty of four counts of aiding and abetting attempted first-degree murder. *See* Minn. Stat. §§ 609.185(a)(1), .05, subd. 1, .17, subd. 1. To prove attempted first-degree murder, the state must prove that an individual, “with intent to commit a crime, d[id] an act which is a substantial step toward, and more than preparation for” “caus[ing] the death of a human being with premeditation and with intent to effect the death of the person or of another.” Minn. Stat. §§ 609.17, subd. 1, .185(a)(1). To prove that a person aided and abetted a crime, the state must prove that the person “intentionally aid[ed], advise[d], hire[d], counsel[ed], or conspire[d] with or otherwise procure[d] the other to commit the crime.” Minn. Stat. § 609.05, subd. 1. Under the aiding-and-abetting theory of liability, the state must prove that the person “knew [their] alleged accomplice was going to commit a crime and . . . intended [their] presence or actions to further the commission of that crime.” *State v. Milton*, 821 N.W.2d 789, 808 (Minn. 2012).

Ledbetter argues that the evidence was insufficient to prove (1) that any of the shooters acted with premeditation, (2) that Ledbetter knew that any of the shooters was

going to commit a crime, and (3) that Ledbetter intended to further the commission of that crime.² We address each issue in turn.

1. Premeditation

For Ledbetter to be convicted of attempted first-degree murder as an accomplice, there must be sufficient evidence that at least one of the other shooters committed attempted first-degree murder, requiring at least one of them to have acted with premeditation. *See* Minn. Stat. § 609.05, subd. 1.

“‘[P]remeditation’ means to consider, plan or prepare for, or determine to commit, the act referred to prior to its commission.” Minn. Stat. § 609.18 (2020). “[T]o prove premeditation, the state must show that, after the [individual] formed the intent to kill, some appreciable time passed during which the consideration, planning, preparation or determination required by Minn. Stat. § 609.18 prior to the commission of the act took place.” *State v. Hurd*, 819 N.W.2d 591, 599 (Minn. 2012) (quotation omitted). Because a finding of premeditation does not require a specific period of time for deliberation, *State v. Hughes*, 749 N.W.2d 307, 312 (Minn. 2008), premeditation can occur when a person makes a decision shortly before acting on it, *see State v. Moore*, 846 N.W.2d 83, 91 (Minn. 2014).

Appellate courts consider evidence of premeditation as a whole, including events before and after the killing or attempted killing. *See Hurd*, 819 N.W.2d at 599 (applying this analysis to first-degree murder). Three categories of evidence are relevant to premeditation: planning activity, motive, and the nature of the act. *Id.* Planning activity

² Ledbetter does not dispute that his act of shooting was a substantial step toward causing the death of the victims, as required under section 609.17.

includes “facts about how and what the defendant did prior to the actual killing which show he was engaged in activity directed to the killing.” *State v. Galvan*, 912 N.W.2d 663, 669 (Minn. 2018) (quotation omitted). Planning activity can include procuring a weapon and bringing the weapon to the scene of the crime. *See State v. Anderson*, 789 N.W.2d 227, 242 (Minn. 2010) (applying this analysis to first-degree murder); *State v. Clark*, 739 N.W.2d 412, 423 (Minn. 2007) (applying this analysis to first-degree murder). Motive evidence can include “prior conduct by the victim known to have angered the defendants.” *State v. Petersen*, 910 N.W.2d 1, 8 (Minn. 2018). Nature-of-the-act evidence can include the number of wounds on the victim, the location of the wounds, and the defendant’s decision to escape rather than render aid to the victim. *Anderson*, 789 N.W.2d at 242.

Here, all three categories of evidence demonstrate premeditation. Regarding planning activity, Morris, a member of Ledbetter’s group, parked his car in a way that could make it easier to flee the parking lot. Morris’s wearing of a mask is consistent with an attempt to obscure his identity and evade detection. Morris, Garth, and Ledbetter brought firearms to what was supposed to be a fistfight, suggesting that they planned to use them. These acts qualify as planning activity that supports a finding of premeditation. *See Galvan*, 912 N.W.2d at 669; *Petersen*, 910 N.W.2d at 7-8.

Regarding motive, one of the victims testified that the groups had previously played basketball together but had fallen out. On the day of the offenses at issue here, they were gathered for a fistfight between L.J. and T.S. Before the shooting, the other group taunted Ledbetter and the other men at Morris’s car. These facts demonstrate that the shooters had motive. “Evidence of motive strengthens a finding that the defendant deliberated over his

actions and weakens the argument that the killing was spontaneous.” *Petersen*, 910 N.W.2d at 8 (quotation omitted).

Regarding the nature of the act, the shooters fired 28 times, striking four people. After Morris or Garth fired the first shot, the other group started running away. Nonetheless, Morris, Garth, and Ledbetter shot another 27 times as the other group fled in the other direction. The three shooters were not shooting at the sky to inflict fear in the other group; they were aiming at individual people between shots and struck four. Morris, for example, stopped running after the other group, planted his feet, and bent his knees, suggesting an attempt to have better aim. He then deliberately shifted his aim toward different individuals. Further, Ledbetter could have stayed safely behind the car after hearing the first shot but chose to stand up and start shooting at the other group. The lapse between Ledbetter hearing the first shot and starting to shoot, however brief, suggests premeditation because he had time to decide to refrain from shooting. *See State v. Palmer*, 803 N.W.2d 727, 736-37 (Minn. 2011) (holding that five-second pause between shots is circumstance proved that supports premeditation).

The serious injuries that the victims suffered also point to premeditation. Two of the victims were shot in the head. One was hit in the torso, which caused his lung to collapse. One victim was struck twice. The number of shots that the shooters fired and the location of wounds near vital organs support an inference of premeditation. *See, e.g., State v. Kendell*, 723 N.W.2d 597, 606 (Minn. 2006) (“[T]he number of times the defendant used the murder weapon and the number of wounds inflicted are relevant to an assessment of premeditation.”); *State v. Cox*, 884 N.W.2d 400, 413 (Minn. 2016) (observing that

inflicting wounds to vital organs supports an inference of premeditation). So, too, does the shooters' decision to flee rather than to render aid to the victims. *See Anderson*, 789 N.W.2d at 242.

Together, the circumstances proved amply support an inference of premeditation. But Ledbetter argues that the circumstances proved also support a reasonable hypothesis that Ledbetter and the other members of his group did not premeditate the shootings but rather shot their guns as “an impulsive and reckless overreaction to taunting by a group of teenagers.” Ledbetter contends that the fact that he and the others went to Morris’s car when Morris first arrived, even though three of them were already armed, suggests that they were planning to leave rather than shoot. Ledbetter also identifies other circumstances that he asserts support a lack of premeditation—including that T.S. was not armed; Morris did not unlock the other car doors before the shooting; Ledbetter flinched when the shooting started, suggesting surprise; the surveillance video does not capture any conversation between the shooters; and the surveillance video does not, in his view, show a “planned and coordinated attack.” Finally, he contends that the district court’s statement at sentencing—that it could not “fathom” what the victims could have said to provoke such a shooting—bolsters support for the hypothesis that it was an impulsive overreaction to harmless taunting.

Ledbetter’s argument is unavailing. Both groups were in the area for a fistfight between their respective members, and the other group’s taunting of Ledbetter and the other three men added to the shooters’ preexisting motive of anger toward the other group. And, though there is no evidence as to what, if anything, was said at Morris’s car, the

absence of this information does not raise an inference inconsistent with premeditation when considered in the full context of the other indicators of premeditation. These indicators include that, when the taunting started, the shooters stopped and exchanged looks, withdrew their weapons, moved apart, and made deliberate movements toward the victims while openly carrying guns; the presence of wounds near vital organs; and the shooters' decision to flee rather than to render aid. Further, around ten seconds passed between when the shooters started walking toward the victims and the first gunshot—more than sufficient time for premeditation to occur under our caselaw. *See Palmer*, 803 N.W.2d at 738 (holding that five-second pause between shots was not inconsistent with premeditation because defendant had enough time to stop shooting). Because premeditation is generally proved through circumstantial evidence, the absence of direct evidence does not alone raise an inference inconsistent with guilt. *See Hughes*, 749 N.W.2d at 312.

In addition, that Ledbetter appears to have flinched or ducked upon the first shot does not reasonably imply surprise given that he was following his two associates advancing toward the group with their guns visibly drawn and he already had his hand in his pocket with the gun. The fact that Morris did not take the step of unlocking all the car doors before the shooting does not reasonably suggest a lack of premeditation when considering the rest of the circumstances proved. And Ledbetter's assertion that the shooters did not appear to be engaging in a "planned and coordinated attack" does not square with the video evidence, which shows the shooters spreading apart and moving quickly toward the other group. Lastly, the district court's interpretation of evidence at

sentencing is not a circumstance proved that appellate courts consider in a sufficiency review based on circumstantial evidence. *See Alarcon*, 932 N.W.2d at 648 (focusing the circumstances-proved inquiry into the jury's acceptance of the circumstances proved at trial). Ledbetter's theory that the shooting, by multiple shooters, was unplanned and simply the product of a rash impulse is not reasonable in light of all the circumstances proved. Even focusing only on the time between when the shooters gathered at the car and when they started shooting, they had sufficient time to consider, plan for, and determine to kill. *See Minn. Stat. § 609.18; see also Cox*, 884 N.W.2d at 412 (explaining that merely "some appreciable passage of time" needs to occur between the formation of the intent to kill and the act of killing).

Ledbetter argues, however, that the evidence is insufficient to show premeditation because it does not prove beyond a reasonable doubt that any of the shooters had the specific intent to kill the four particular victims. We are unpersuaded. As described above, the shooters arrived at a planned encounter with a group of young people with whom they had had a falling out. They were armed even though there was supposed to be only a fistfight. After members of the other group started taunting them, the shooters exchanged looks, took out their weapons, advanced deliberately toward the group, and fired 28 shots. Garth and Morris ran toward the victims, showing an intent to directly target them. Morris, after initially running toward the group that included the victims, stopped running, planted his feet, and began shooting while shifting his aim to different individuals.

The four victims who were actually shot were part of the group of young people that the shooters intended to shoot. To strike the four victims, the shooters had to aim and shoot

at each victim. Ample time existed for the shooters to select a person to target. Further, regarding the severity of the wounds, the fact that two of the victims were shot in the head and another victim was shot in the chest points to these shots being targeted at the specific victims. *See Anderson*, 789 N.W.2d at 242. The only rational inference from these circumstances is that at least one of the shooters premeditated the shooting of the four victims.³

³ In challenging his guilt as a principal, Ledbetter argues that the evidence is insufficient to convict him because there is no evidence that Ledbetter “fired the gun at any of the four named victims, let alone hit any of them, or that he specifically intended to kill any particular person.” The state responds that the “doctrine of transferred intent” allows for affirmance of Ledbetter’s convictions. The doctrine of transferred intent, which is incorporated into the first-degree murder statute, provides “that a defendant may be convicted if it is proved [that they] intended to injure one person but actually harmed another.” *State v. Cruz-Ramirez*, 771 N.W.2d 497, 507 (Minn. 2009) (quotations omitted); *see also* Minn. Stat. § 609.185(a)(1) (criminalizing “caus[ing] the death of a human being with premeditation and with intent to effect the death of the person *or of another*” (emphasis added)). Ledbetter counters that the doctrine of transferred intent cannot be considered because, here, the district court’s jury instructions referenced only the intent to effect the death of the four named victims and did not include the phrase “or of another.”

We need not decide whether the district court’s jury instructions foreclose consideration of transferred intent, or whether transferred intent is relevant here, because, as described above, we conclude that the evidence is sufficient to prove that at least one of the shooters acted with premeditation to kill the four victims—supporting Ledbetter’s guilt as an accomplice. We note that other jurisdictions have addressed the effect of jury instructions that differ from the statutory elements of a crime on an appellate court’s review of sufficiency-of-the-evidence challenges. *See, e.g., Musacchio v. United States*, 577 U.S. 237, 243-44 (2016) (holding that a reviewing court’s sufficiency review “does not rest on how [a] jury was instructed” when “a jury finds guilt after being instructed on all elements of the charged crime plus one element”); *State v. Johnson*, 399 P.3d 507, 514, 517 (Wash. 2017) (holding that the state must prove every element in the jury instructions even when they add an element not required by statute). But we do not address the issue further.

2. Knowledge of Plan to Commit the Crime

For Ledbetter to be convicted as an accomplice, the state also had to prove that Ledbetter knew that his accomplices were going to commit a crime. *See Milton*, 821 N.W.2d at 808.

Ledbetter argues that there is an alternative reasonable inference inconsistent with him having knowledge of a plan to commit a shooting. Similar to his argument regarding premeditation, Ledbetter contends that the following circumstances reasonably suggest that Ledbetter did not know of a plan to shoot: (1) Ledbetter's group approached Morris's car shortly before the shooting, suggesting a plan to leave; (2) the shooters approached the victims in an uncoordinated fashion, suggesting it was not planned; (3) Ledbetter initially ducked when the shooting started, suggesting surprise; and (4) at sentencing, the district court stated that it could not "fathom" what the victims could have said to provoke such a shooting, suggesting that the shooting was impulsive.

On the first point, even assuming that Ledbetter's group planned to leave prior to the taunting, there was still sufficient time following the taunting for Ledbetter to have developed knowledge of the other members' plan to imminently commit the shooting, especially considering that he observed the other shooters walking toward the victims with guns drawn. Second, the way the shooters walked toward the victims does not suggest the lack of a plan to commit a shooting. Third, the fact that Ledbetter appeared to flinch when the shooting started, even if it suggests initially being startled by the sound, fails to raise an inference that Ledbetter lacked knowledge of the shooting when considered along with the other indicators of his knowledge. These indicators include that Ledbetter followed

Morris and Garth, who were both visibly carrying guns, as they approached the victims; that Ledbetter moved the cigarette he was holding from his right hand to his left hand and then reached into his right-hand pants pocket for his gun, suggesting knowledge of a plan to imminently use the guns; that Ledbetter's hand was in the pocket with his gun when the shooting began; and that, rather than staying safely ducked behind the car, Ledbetter chose to stand up, draw his gun, and join Morris and Garth in firing toward the other group. Lastly, the district court's comment at sentencing does not establish a circumstance proved. *See Alarcon*, 932 N.W.2d at 648 (explaining that the circumstances proved are those accepted by the jury). Together, the circumstances proved reasonably lead to only one rational inference about knowledge—namely, that Ledbetter knew of his accomplices' plan to shoot.

3. Intent to Aid the Commission of the Crime

Ledbetter's conviction as an accomplice also requires the state to have proved that Ledbetter intended his presence or actions to further the commission of this crime. *See Milton*, 821 N.W.2d at 808. Again, Ledbetter argues that the surveillance video allows for "a reasonable alternative inference: that the shooting was an impulsive reaction rather than a planned and coordinated attack, meaning that the three men were operating independently from one another." Ledbetter also highlights that there is no evidence that Ledbetter provided Morris or Garth with weapons or ammunition, that Ledbetter was not the first to start walking toward the group, and that Ledbetter did not drive the getaway car.

We concluded above that the only reasonable inference from the circumstances proved is that the shooting was a premeditated attack and that Ledbetter knew of the

planned attack, even if just for a few moments before it occurred. Especially in light of those facts, Ledbetter's intent to aid the commission of the crime is easily established by his actions of following his accomplices toward the other group, drawing his gun, and shooting at the other group. The circumstances proved do not reasonably suggest the three shooters were acting independently or that Ledbetter did not intend his presence and actions to aid in the commission of the crime.

We conclude that the only reasonable inferences from the circumstances proved are that at least one of the shooters acted with premeditation, that Ledbetter knew of the plan, and that Ledbetter, by his presence and participation, intended to aid in this plan. The evidence is therefore sufficient to support his convictions for aiding and abetting attempted first-degree murder. Because the evidence is sufficient to support Ledbetter's guilt as an accomplice, we need not evaluate his culpability as a principal.

Affirmed.