

*This opinion is nonprecedential except as provided by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
A23-1916**

State of Minnesota,
Respondent,

vs.

Kenneth Gale Lanham,
Appellant.

**Filed December 2, 2024
Affirmed
Schmidt, Judge**

Pine County District Court
File No. 58-CR-20-546

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, St. Paul, Minnesota; and

Reese Frederickson, Pine County Attorney, Pine City, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

In this appeal from a criminal sexual conduct conviction, appellant Kenneth Gale Lanham argues that respondent State of Minnesota did not prove venue. Because venue can be established where authorities discover the abuse of a child victim, we affirm.

FACTS

In 2016, Lanham sexually assaulted seven-year-old N.N. while riding in a vehicle. Lanham told N.N. not to tell anyone or he would kill N.N. and her family.

During the 2019–20 school year, N.N. disclosed to a school counselor that Lanham had sexually assaulted her. In February 2020, a Pine County Health and Human Services investigator conducted a forensic interview where N.N. disclosed that Lanham abused her.

Based on the interview with the investigator, the state charged Lanham with first-degree criminal sexual conduct. With respect to venue, N.N. testified at trial to disclosing the abuse to the investigator. N.N.’s mother testified that, at the time of the disclosure, N.N. lived in different locations—including in Hinckley—and that N.N. attended school in Hinckley.¹ The investigator testified that the interview with N.N. occurred in an “interview room here at Pine County.” The jury saw a recording of the February 2020 interview during which N.N. disclosed the abuse.

Following N.N.’s testimony, the state amended the charge to second-degree criminal sexual conduct. After the state rested, Lanham moved for a judgment of acquittal, contending that the state had failed to prove venue. The district court denied the motion. The jury found Lanham guilty and the district court sentenced him to 160 months in prison.

Lanham appeals.

¹ Hinckley is located entirely within Pine County, but the jury did not hear testimony explicitly stating that fact. Because we reach our decision based upon direct evidence, we need not decide whether the jury could infer venue existed in Pine County based upon the testimony of events that occurred in Hinckley. *But see State v. Bahri*, 514 N.W.2d 580, 582-83 (Minn. App. 1994) (concluding “jury inferentially found that venue existed” in Hennepin County based upon testimony of events occurring in Minneapolis).

DECISION

Lanham argues that the state failed to prove the venue element of the offense beyond a reasonable doubt. Specifically, Lanham contends the state failed to prove that N.N. was “found” in Pine County. We disagree.

In a sufficiency-of-the-evidence review, “we review the evidence to determine whether, given the facts in the record and the legitimate inferences that can be drawn from those facts, a jury could reasonably conclude that the defendant was guilty of the offense charged.” *State v. Smith*, 9 N.W.3d 543, 564-65 (Minn. 2024) (quotation omitted). We must view the evidence “in the light most favorable to the verdict.” *Id.* at 565.

Unless otherwise specified by the Minnesota Rules of Criminal Procedure or a special venue statute enacted by the Minnesota Legislature, “every criminal cause shall be tried in the county where the offense was committed.” Minn. Stat. § 627.01 subd. 1 (2016); *see also State v. Krejci*, 458 N.W.2d 407, 411 (Minn. 1990) (“The legislature has the authority, within the confines of the constitution, to enact special venue statutes and has done so when special needs relating to venue have arisen.”). For child abuse cases, the Minnesota Legislature has enacted such a special venue statute that allows criminal actions involving child abuse to be prosecuted “in the county where the alleged abuse occurred or the county where the child is *found*.” Minn. Stat. § 627.15 (2016) (emphasis added). While the special venue statute does not define “child abuse,” we have applied it to crimes involving violations of the criminal sexual conduct statutes. *State v. Seivers*, 2 N.W.3d 568, 573 (Minn. App. 2024), *rev. granted* (Minn. Apr. 24, 2024).

The jury convicted Lanham of second-degree criminal sexual conduct for sexually abusing a child. Because second-degree criminal sexual conduct qualifies as “child abuse” for purposes of determining venue under the special venue statute, the question here turns on where N.N. was “found” for purposes of the special venue statute, Minn. Stat. § 627.15.

Lanham argues that this court’s opinions in *State v. Larson*, 520 N.W.2d 456 (Minn. App. 1994), *rev. denied* (Minn. Oct. 14, 1994), and *State v. Rucker*, 752 N.W.2d 538 (Minn. App. 2008), *rev. denied* (Minn. Sept. 23, 2008), require the state to prove beyond a reasonable doubt that the child resided in Pine County at the time of the offense or at the time of disclosure for the special venue statute to apply. In *Larson*, we concluded that a child’s county of residence is a place that a child can be “found.” 520 N.W.2d at 460. We did not, however, hold that the child’s residence is the *only* place a child can be “found.” *See id.* We also noted that “the supreme court has demonstrated a willingness to construe [the special venue statute] liberally in child abuse cases” and has allowed “prosecution in a county other than where the crimes occurred.” *Id.* In *Rucker*, we applied a “liberal construction of the venue statute” and held that a child can be “‘found’ in the county where the child resided either when the abuse occurred *or* when the abuse was discovered.” 752 N.W.2d at 547 (emphasis added).

These opinions are consistent with the Minnesota Supreme Court’s decision in *Krejci*, where the court analyzed the special venue statute and concluded that a case is properly tried where “authorities discovered the alleged abuse[.]” 458 N.W.2d at 410. In *Krejci*, a 21-month-old baby lived in—and suffered abuse in—Renville County. *Id.* at 408. While the parents and their child were visiting friends in Minneapolis, the baby’s “body

‘seized up’ and he went into a coma.” *Id.* at 409. His parents eventually brought the child to a hospital in Hennepin County, where physicians “discovered” the abuse. *Id.* The supreme court held that venue in Hennepin County to prosecute the father for first-degree assault of his son was proper. *Id.* at 410. The court concluded that the child was “found” in Hennepin County when “authorities discovered the alleged abuse . . . in Hennepin County as a result of the injury defendant inflicted on him in Renville County.” *Id.*

Given the supreme court’s holding in *Krejci*—and our consistent opinions in *Larson* and *Rucker*—we disagree with Lanham’s argument that, to prove venue, the state was required to demonstrate that the child resided in Pine County at the time of the offense or at the time of disclosure. Although those are two proper ways that the state can establish venue, the state may also prove venue by demonstrating that authorities discovered the abuse in Pine County. *Krejci*, 458 N.W.2d at 410.

We agree with the state that it proved venue through direct evidence based upon where authorities discovered the abuse. “[D]irect evidence is evidence 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) (quotation omitted). When an element of an offense is supported by direct evidence, our review is limited “to a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, [is] sufficient to permit the jurors to reach the verdict [that] they did.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (quotation omitted).

Here, N.N. testified that she disclosed the abuse to an investigator during an interview. The investigator testified that the interview with N.N. occurred in an “interview

room here at Pine County.” The combined testimony constitutes “personal knowledge”—which we must assume the jury believed—that “proves a fact” of venue in Pine County “without inference or presumption.” *Harris*, 895 N.W.2d at 599. As such, we conclude that the state proved by direct evidence that the abuse was discovered in Pine County and, therefore, N.N. was “found” in Pine County for the purposes of establishing venue.

Affirmed.