STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1974

State of Minnesota,
Respondent,

vs.

Cassandra Anne Dusold,
Appellant.

Filed February 3, 2025
Affirmed
Connolly, Judge

Scott County District Court
File No. 70-CR-22-928

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

Ronald Hocevar, Scott County Attorney, Elisabeth M. Johnson, Assistant County Attorney, Shakopee, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Jesson, Judge.*

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

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges her conviction of second-degree unintentional murder, arguing that the district court erred in finding that appellant had failed to meet her burden of proving her mental-illness defense. We affirm.

FACTS

Appellant Cassandra Dusold, then 21, was first hospitalized for treatment of her mental illness in 2009, when she reported hallucinations and was prescribed antidepressants. Her most recent hospitalization was in 2021, and her diagnosis included paranoia, psychosis, generalized anxiety disorder, mood disorder, and schizophrenia versus schizoaffective disorder (chronic with acute exacerbation). When appellant was discharged after two weeks, she was told to take her prescribed medication, to attend day treatment, and to attend psychotherapy. However, she complied only with taking the medical marijuana prescription.

Later in 2021, appellant ended a long-term relationship and left her residence. With her parents' consent, she moved, with her dog, into their home. The dog was not adequately house-trained and could be aggressive, and appellant was unusually attached to it. When her parents told her the dog had to leave, she said she would leave too.

On January 19, 2022, appellant called 911 and reported that her mother D.D., then 69, had fallen and was unresponsive. When the paramedics arrived, they found D.D. not breathing and with multiple injuries. They revived her and took her to the hospital, where she was admitted to intensive care.

Appellant remained in the house with police investigators, who interviewed her. Her responses were often incoherent, inconsistent, or unrelated to the questions she was asked. Appellant told P., a detective, that after she and D.D. had eaten sandwiches in D.D.'s bedroom, she left to take the dishes to the kitchen, then heard a "thud," returned to the bedroom, found D.D. face down on the floor, and called 911. Appellant repeatedly told P. that she had nothing to do with what happened to D.D.

Appellant later told P. and A., a deputy, that she had scratches on her arms because D.D. "came at me, and I defend. That's what I do." She later said "I apologize that I wasn't a hundred percent honest. Because as a person that makes me want to not like myself, because we are our word and our integrity." When asked how D.D. attacked her, appellant said, "With claws? Apparently, that was pretty alarming." Appellant also told them, "Um, I know, I fully know. Right, wrong. Other things like that. It's just, you become desensitized. Okay. When you are in such feral environments."

Appellant said that, when she went back into D.D.'s bedroom, she was "met with hostility, which was neutralized." She again said that she was met with claws when she went back into the bedroom and, when asked what she did, said "I, my brain went into neutralize. . . . That's all. I called 911. I did the compressions." When asked what "neutralizing" meant to her, appellant said, "Neutralizing means stop the hostile response, stop, whatever is trying to harm you." When asked how she did that, she said, "With my [right] arm"; when asked what she did with her right arm, she answered "Choked [D.D.] with a chokehold." When asked what she did with her left arm, she said, "My left arm meets the right arm and other than that . . . it's instinct. Um, I know my body got into it.

My ribs hurt." When asked how long she thought she had D.D. in that position, i.e., the chokehold, she said, "I have no idea. That's part of that." When asked how it stopped, she said, "I lifted my arm and ceased and then I called 911."

After appellant said, "I am not gonna like spend any energy trying to justify," she was asked what happened to D.D., and answered, "I had noticed at that point that there seemed to be moisture on the ground. Or where her legs were. And I figured at that point it was too gone. I saw the red and I realized that things were no bueno. . . . And I, I switched into to, um, protect mode." When asked how long it took for D.D. to get to the floor, appellant answered, "I was on the floor"; when asked what the thud was, she said, "The thud was hurting me, hitting the floor."

Later, when asked what noises D.D. was making and what threat she herself was feeling, appellant began talking about her dog instead of D.D. P. said, "I just wanna make sure I understand you correctly. Did you say the only way your mom will remain calm is if she bled out on the floor?" Appellant answered, "Oh, no, no. That was talking about me and the dog." When asked if she should be held accountable for hurting D.D., appellant answered, "It's not right. . . . I don't make those choices. I don't get a say in that."

When asked if she had done anything similar to D D. in the past, appellant said, "I always just left. I had never, never really allowed her to corner me because I knew, . . . then everybody knew [that] if she cornered me it wouldn't be good." Later, when asked if she had ever put anyone in a chokehold before, appellant said, "Never to that extreme. . . . [U]sually . . . it's neutralized enough [for me] to get away."

On January 22, 2022, D.D. died in the hospital, having been pronounced brain dead. Her autopsy report stated that she died of complications of anoxic encephalopathy due to cardiopulmonary arrest (resuscitated) due to manual strangulation.

The next day, appellant contacted police officers. She told them that D.D. had lunged at her while they were on the bed and that she grabbed D.D. and placed her arm around D.D.'s neck. When asked how long she held D.D. in that position, appellant answered, "I have no idea. But apparently way too long." Appellant was then charged with second-degree intentional murder because she caused D.D.'s death by choking her.

Appellant waived her right to a jury trial, and her trial was bifurcated. Prior to the first phase of the trial on June 22, 2023, which was to establish appellant's innocence or guilt, she was evaluated under Minn. R. Crim P. 20.02 by two mental-health professionals, whose reports were admitted at the mental-health phase of the bifurcated trial on August 15, 2023.

About five and six months after the offense, on June 15 and July 29, 2022, Dr. T. A. evaluated appellant and found evidence both to oppose and to support the view that appellant had known what she did was morally wrong. Opposing evidence included: (1) appellant's history of mental illness, (2) her family's observation of her symptoms of mental illness prior to this offense, (3) appellant's description of D.D. attacking her with claws was not consistent with D.D.'s past behavior, (4) appellant's interviews with law enforcement were odd, and (5) appellant was paranoid while in jail. Behavior supporting the view that appellant knew what she was doing and that it was morally wrong included: (1) appellant's lies to 911 and to law enforcement about her actions immediately after

committing them; (2) her statements that she knew right from wrong, felt bad, and acknowledged that what happened was not right; and (3) the fact that her post-offense mental-health symptoms in custody were minimal, although she was not taking medication. Dr. T. A.'s report was completed on November 3, 2022.

About 15 and 16 months after the offense, on April 6 and May 8, 2023, Dr. G. H.-J. evaluated appellant. He found symptoms of schizoaffective disorder, including hallucinations and delusions, particularly persecutory delusions, but said it could be argued that appellant's symptoms were not severe enough to interfere with her understanding of the moral wrongfulness of her conduct. Ultimately, Dr. G. H.-J. testified, "My finding[] in completing this evaluation is that [appellant] did not know the moral wrongfulness of her act, therefore should be allowed to have a Rule 20.02 defense available to her."

A third mental-health professional, Dr. A.C., evaluated appellant after the first phase of the trial, on June 26 and July 14, 2023. This doctor diagnosed appellant with schizotypal personality disorder with borderline personality features and said it was not clear that appellant's mental state at the time of the incident was so impaired that appellant did not know what she was doing or that it was wrong. Dr. A.C. noted that calling 911 and providing false, self-serving information was not consistent with the statutory standard for mental illness.

On August 11, 2023, the district court found appellant not guilty of felony intentional murder in the second degree, because it was not established beyond a reasonable doubt that she intended to kill D.D. But the district court found appellant guilty of the lesser-included offense of unintentional murder in the second degree. The district court

also found that appellant's self-defense claim failed because D.D. was 69 years old and weighed just over 100 pounds, so appellant could not have had a reasonable belief that she herself was in danger.

At the second phase of the trial, the district court addressed the question of whether appellant knew her acts were morally wrong.

> [A]ll three doctors identified some evidence to support a finding that [appellant] was unable to know the wrongfulness of her actions due to her mental illness. . . .
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> [Her] behaviors [during and after the incident], along with other behaviors identified by the doctors, could arguably evidence [her] lack of knowledge as to the wrongfulness of her conduct. However, the Court finds that these behaviors are much more indicative of general symptoms of mental illness as opposed to an inability to know the moral wrongfulness of her actions as a result of mental illness . . . . [B]ut existence of a severe mental illness is not determinative of whether [appellant] knew the moral wrongfulness of her conduct.
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> Very soon after attacking [D. D., appellant] was able to lie coherently and consistently about what had occurred. [She] first lied to the 911 operator when she said [D. D.] had fallen and was unresponsive. [She] then lied to law enforcement officers. [She] provided a similar, but more detailed, false account of hearing a thud while outside of [D. D.'s] bedroom and then finding . . . [D. D.] lying face down on the floor. Both the fact that [appellant] lied about what happened and the fact that she was able to do so convincingly support a finding that she knew the moral wrongfulness of her conduct.
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> [Appellant] also took action to hide evidence that she was the attacker. . . . [Her] efforts to conceal the crime are also evidence of logical thinking that necessarily means any mental illness (delusions or otherwise) did not impact her thinking to the extent [she] argues. This conduct supports a finding that [appellant] knew the wrongfulness of her actions.

. . . .

> . . . The evidence that the doctors identified as showing that [appellant] did not know the wrongfulness of her actions was evidence of her psychiatric condition, but not particularly probative of her knowledge of wrongfulness. The evidence that the doctors identified, and the court agrees with, as showing that [appellant] did know the wrongfulness of her actions is much more probative of [her] actual knowledge of wrongfulness at the time of the offense. As such, [appellant] has failed to prove that the greater weight of the evidence shows that [she] was laboring under such a defect of reason from her mental illness as not to know the moral wrongfulness of her conduct. The evidence shows that [appellant] knew the nature of her act and that it was wrong.

Appellant's motion for a downward durational departure was denied, and she was sentenced to the presumptive 128 months in prison. She challenges her conviction, arguing that the district court erred in determining that she had not met her burden of showing by a preponderance of the evidence that she did not know the moral wrongfulness of her conduct.

DECISION

A defendant asserting mental illness "shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act the person was laboring under such a defect of reason . . . as not to know the nature of the act, or that it was wrong." Minn. Stat. § 611.026 (2022). "'Wrong' is used in the moral sense." *State v. Roberts*, 876 N.W.2d 863, 868 (Minn. 2016).

> [A] finding that a defendant failed to meet his or her burden to prove a mental-illness defense should not be disturbed unless it is clearly erroneous. A factual finding is clearly erroneous if it does not have evidentiary support in the record or if it was induced by an erroneous view of the law. . . . [A] factual

> finding is clearly erroneous only if we are left with the definite and firm conviction that a mistake has been made. . . . *Moreover, the factfinder is not bound by expert psychiatric testimony and may reject it entirely, even when the only experts who testify support the defendant's assertion of a mental-illness defense*.

Id. (emphasis added) (quotation and citations omitted). The defendant must prove a mental-illness defense by a preponderance of the evidence. *Id.* "We have consistently held that the issue of legal mental illness is a question for the finder of fact, and we have granted the fact finder broad deference in assigning the weight to give to various testimony." *State v. Peterson*, 764 N.W.2d 816, 822-23 (Minn. 2009).

The district court concluded that appellant had not met the burden of proving her mental-illness defense. This conclusion is supported by evidence presented during the trial. Some of it resulted from appellant's own acts after perceiving D.D.'s condition: she immediately sought and followed instructions from 911 on how to care for D.D., and she later told different stories about what had happened, concluding with a self-defense explanation.

Other supporting evidence was provided by the three doctors: they noted first, that appellant did not display any psychosis on the day of the act and did not claim to have experienced hallucinations or delusions after the act and before she was incarcerated, although she had not taken medication and had been under great stress; second, that while it is unusual for a mentally ill person to be free of symptoms right after committing a crime, appellant did not claim to be experiencing hallucinations or delusions between the act and her incarceration; third, appellant no longer remembers anything about the act, which is

atypical, since creation of false memories is what usually happens; and fourth, the doctors had to rely on appellant's self-reporting and she is a poor historian.

Appellant relies extensively on *State v. Rawland*, 199 N.W.2d 774, 790 (Minn. 1972), in which the supreme court concluded that, "in this case the defendant established . . . that he was laboring under such a defect of reason from mental illness that he did not know the nature of his act or that it was wrong, and that he [therefore] should have been found not guilty." But *Rawland* is distinguishable from this case, as it was found distinguishable from *Roberts*.

> [In *Rawland*], all experts agreed [that Rawland] had a serious mental disease at the time of the event; all experts agreed that he did not have the ability to control his actions at the moment the offense was committed and that he lacked the capacity to freely and deliberately choose to commit the act; and all experts inferred that he was not at the time able to distinguish between right and wrong. Here, by contrast, it is undisputed that Roberts knew the nature of his acts; the experts are divided on the type, severity, and remission of Roberts's mental illness; and the experts are divided on Roberts's knowledge of moral wrongfulness.
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> . . . Moreover, the district court's finding [that Roberts failed to establish that he did not know the acts were morally wrong] is supported by the State's expert, . . . who opined that . . . Roberts's conduct shortly before and after the murders indicated an understanding of the wrongfulness of his acts. We afford substantial deference to the district court's evaluation of the evidence of mental illness and the weight to assign to expert psychiatric testimony.

Roberts, 876 N.W.2d at 870-71 (quotations and citation omitted). After carefully summarizing each expert's position and explaining why and to what extent it agreed or disagreed with that position, the district court concluded that appellant had not shown by a

preponderance of the evidence that she did not know what she was doing and that what she was doing was morally wrong.

Appellant argues that "the greater weight of the evidence establishes that [her] mental illness prevented her from knowing, at the time she choked [D.D.], her act was morally wrong." But it is the factfinder, not the defendant, who is "granted . . . broad deference in assigning the weight to give to various testimony." *Peterson*, 764 N.W.2d at 823.

Particularly in light of this broad deference, there is no basis to reverse the district court's decision.

Affirmed.