

*This opinion is nonprecedential except as provided by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
A24-0163**

State of Minnesota,
Respondent,

vs.

Iman Ahmed Abdelhakim,
Appellant.

**Filed January 6, 2025
Affirmed
Ede, Judge**

Hennepin County District Court
File No. 27-CR-23-14481

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

Mary F. Moriarty, Hennepin County Attorney, Nicholas G. Kimball, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

In this direct appeal challenging a judgment of conviction for threats of violence, appellant argues that he is entitled to a new trial because the district court did not instruct the jury that it needed to render a unanimous verdict on the predicate offenses underlying

the threats-of-violence charge. Because the jury was not required to unanimously decide on the means by which appellant committed the threats-of-violence offense, we affirm.

FACTS

In July 2023, respondent State of Minnesota charged appellant Iman Ahmed Abdelhakim with one count of threats of violence, in violation of Minnesota Statutes section 609.713, subdivision 1 (2022), and one count of harassment, in violation of Minnesota Statutes section 609.749, subdivision 2(b)(3) (2022).¹ The matter proceeded to a two-day jury trial in October 2023. The following factual summary is based on the testimony and evidence adduced at trial, which includes two security camera videos and screenshots of text messages that Abdelhakim sent to the victim, A.F.

Around 12:35 a.m. on May 31, 2023, a man arrived at A.F.’s Minneapolis home and rang the doorbell. A security camera activated, and the man left a message stating: “[H]ave J.D. call me right now. And he . . . knows what’s going on. . . . [T]ell him this is Egypt” The man also left a phone number. A.F. and her family were inside the home. At the time, A.F. did not recognize the name “J.D.” and did not know the man who rang the doorbell. At trial, however, A.F. identified the individual recorded in that first security video as Abdelhakim.

Later on May 31, while A.F. was at work, the security camera again alerted A.F. that someone was at the front door of her home. For most of this second recording, only

¹ As noted below, the district court added an additional count of harassment at trial based on the parties’ discussion of the jury instructions. Abdelhakim does not challenge his harassment convictions in this appeal.

the individual's silhouette is visible. The person did not leave a message. The video depicts the individual walking back to a vehicle after no one answers the door. A.F. testified that she believed that second security video captured the person taking a picture of her residence.

Following these incidents, A.F. sent a text message, using the name and phone number provided by Abdelhakim in the first security video:

Egypt, you rang my doorbell at 12:30 last night and were kind enough to leave your number as my . . . camera recorded you. J.D. doesn't live here. Please, please, please don't come back. I don't have what you want. And if any of your other friends are looking for J.D. at that address, please tell them to leave us alone.

In response, A.F. received the text message below:

NOT going to happen[.] I promise on my kids future if what he's taken is NOT RETURNED BY 5 TODAY it's going to be other people that [w]ill be coming[.] [H]ere's your ONLY chance to have him return what was taken or honestly leave the state[.] [Y]ou're dealing with people out [of] my control[.] I swear to God[,], they won't just stop with you. Your children, [p]arents[, and] whole family is game. I'd be on the phone tracking him down right now and having him bring back the petty things he's taken[,], otherwise things won't stop[.] [Y]ou have kids at that house[.] [D]o the right thing.

A.F. replied by stating that she did not know J.D. and that Abdelhakim had the wrong address. Abdelhakim nonetheless texted A.F. a demand for J.D.'s address. After A.F. continued to maintain that she did not know J.D. or his address, Abdelhakim sent her the following message:

Look[,], like I said[,], you're going to explain it to . . . the guy you'll meet pretty soon[.] I'm telling you this straight up at this point[.] [I]t's not going to be no negotiation[.] [I]t's

going to turn into a ransom[,] you understand? You're f*****
with people that are not from here

. . . Come up with a location[,] my money[,] or just
know things will be different by [m]orning.

Abdelhakim continued to text A.F. throughout the evening of May 31, including by sending a picture of a hand holding a gun and this message: "We're ready for Lazer Tag?" The next day, Abdelhakim sent A.F. a photograph showing the front of her house and the message: "Come outside."

A.F. reported the incident to law enforcement on June 1. A police sergeant investigated, contacting Abdelhakim by using the phone number he provided in the first security video. Abdelhakim admitted to the sergeant that A.F. gave him her phone number and confessed that he sent the aforementioned text messages to A.F. He never suggested to the sergeant that someone else had texted A.F. and instead confirmed that he had contacted A.F. via text. The messages caused A.F. to fear for her safety and for the safety of her husband and children, so they first hid inside their house and then left home for a few days. And because of the emotional distress she experienced during her interactions with Abdelhakim, A.F. sought trauma therapy.

At trial, Abdelhakim testified that he was "robbed at gunpoint and knifepoint" on the night of May 30 in north Minneapolis by someone named "J.D." Abdelhakim said that he was exiting a gas station when J.D. approached him, brandished a gun, and took Abdelhakim's bag containing his phone, keys, and wallet. Around 12:30 a.m., Abdelhakim stated that he went to a house in Minneapolis, where he believed J.D. lived. When no one answered the door, Abdelhakim left a message—including his work phone number—for

J.D. Abdelhakim said that he was employed in the real estate field and that his “site manager” also had access to his work phone number. Contrary to the sergeant’s testimony about his confession, Abdelhakim denied texting A.F., taking a picture of A.F.’s home, owning a firearm, and sending A.F. a picture of himself holding a gun.

The jury returned guilty verdicts on count I—threats of violence—and counts II and III—harassment.² The district court adjudicated all three counts but imposed a 36-month executed sentence only on the threats-of-violence count.

Abdelhakim appeals.

DECISION

Abdelhakim maintains that “[t]he district court’s [threats-of-violence] jury instruction materially misstated the law because it did not require the jury to unanimously agree on what act was a crime of violence,” such that his “right to a unanimous jury verdict was violated.” Based on this alleged instructional error, Abdelhakim asserts that he is entitled to a new trial. We are not persuaded.

As an initial matter, the parties dispute the applicable standard of review. Abdelhakim argues that the abuse-of-discretion standard applies. The state, however, contends that we should review the district court’s jury instructions for plain error.

² As mentioned above, the state originally charged Abdelhakim with only one harassment offense—a violation of Minnesota Statutes section 609.749, subdivision 2(b)(3). In light of the parties’ respective positions on the jury instructions, however, the district court added an additional count of harassment during the trial. The warrant of commitment reflects that the added harassment count was a violation of Minnesota Statutes section 609.749, subdivision 2(b)(2) (2022). Again, Abdelhakim has not advanced any appellate arguments about his harassment convictions.

Appellate courts generally “review a district court’s jury instructions for an abuse of discretion.” *State v. Huber*, 877 N.W.2d 519, 522 (Minn. 2016). But unobjected-to jury instructions are reviewed for plain error. *Id.* “Under the plain-error doctrine, the [defendant] must show that there was (1) an error; (2) that is plain; and (3) [that] the error affected [the defendant’s] substantial rights.” *Id.* Although Abdelhakim initially lodged an objection on jury-unanimity grounds as to the harassment counts, he did not do so regarding the threats-of-violence charge. Because Abdelhakim neither proposed a unanimous threats-of-violence instruction nor objected to the district court’s final instructions to the jury, we apply the plain-error standard of review.

“[A]n error is plain if it contravenes case law, a rule, or a standard of conduct.” *State v. Zinski*, 927 N.W.2d 272, 275 (Minn. 2019) (quotation omitted). And “[a]n erroneous jury instruction affects a defendant’s substantial rights if the error was prejudicial and affected the outcome of the case.” *Huber*, 877 N.W.2d at 525. “If the first three parts of the plain-error doctrine are satisfied, the reviewing court corrects the error only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *State v. Lagred*, 923 N.W.2d 345, 348 (Minn. App. 2019) (quotation omitted). But “[i]f the reviewing court concludes that any part of the plain-error test is not satisfied, the court need not consider the other parts.” *Id.* We conclude that the district court’s threats-of-violence jury instruction was not erroneous.

Abdelhakim was convicted of threats of violence under Minnesota Statutes section 609.713, subdivision 1, which provides: “Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another . . . may be sentenced to

imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.” Minn. Stat. § 609.713, subd. 1. “As used in this subdivision, ‘crime of violence’ has the meaning given ‘violent crime’ in section 609.1095, subdivision 1, paragraph (d).” *Id.* Intentional murder (Minn. Stat. § 609.19 (2022)), assault with a dangerous weapon (Minn. Stat. § 609.222 (2022)), and kidnapping (Minn. Stat. § 609.25 (2022)) are violent crimes that qualify as predicate offenses for a threats-of-violence charge. *See* Minn. Stat. § 609.1095, subd. 1(d) (2022).

The district court provided the following threats-of-violence instruction to the jury:

Elements. The element of threats of violence are, first, the defendant threatened, directly or indirectly, to commit a violent crime. To threaten is to communicate through words or actions an intention to injure another person or their property. You are instructed that intentional murder, assault with a dangerous weapon, and kidnapping are violent crimes.

The elements of intentional murder are causing the death of a person with the intention to kill.

The elements of assault with a dangerous weapon are assaulting a person with a dangerous weapon. The term “assault” as used in this case is the intentional infliction of bodily harm upon another. A firearm, whether loaded or unloaded, or even temporarily inoperable, is a dangerous weapon.

The elements of kidnapping are removing a person from one place to another for the purpose of receiving ransom or reward.

The defendant is not charged with intentional murder, assault with a dangerous weapon, or kidnapping in this case. I’ve read the elements of those offenses because the crime of threats of violence is proven only if you find the defendant threatened to commit *one or more* of those particular violent

crimes. It not need [sic] be proven that the defendant had the actual intention of carrying out the threat.

(Emphasis added).

Abdelhakim concedes that it was proper for the district court to instruct the jury that second-degree assault—i.e., assault with a dangerous weapon under Minnesota Statutes section 609.222—was a predicate offense for the threats-of-violence charge. Yet he maintains that, because the jury was presented with factual questions about whether the text messages establish that he threatened to murder and kidnap the victim, the district court should have instructed the jury that it must unanimously agree as to which crime or crimes of violence support his threats-of-violence conviction.

“The State must prove every element [of the charged offense] beyond a reasonable doubt to satisfy the requirements of due process.” *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023). And a unanimous verdict is required in all cases. *State v. Stempf*, 627 N.W.2d 352, 354 (Minn. App. 2001). “Where jury instructions allow for possible significant disagreement among jurors as to what acts the defendant committed, the instructions violate the defendant’s right to a unanimous verdict.” *Id.* “[T]he jury must unanimously agree on which acts the defendant committed if each act itself constitutes an element of the crime.” *Id.* at 355. “But unanimity is not required with respect to the alternative means or ways in which the crime can be committed.” *Id.* at 354–55 (quotation omitted). “This occurs when a [district] court determines that ‘certain statutory alternatives are mere means of committing a single offense, rather than independent elements of the crime.’” *Id.* at 355 (quoting *Schad v. Arizona*, 501 U.S. 624, 636 (1991)).

A decision of the Minnesota Supreme Court illustrates this point. *See State v. Ihle*, 640 N.W.2d 910, 917 (Minn. 2002). In *Ihle*, the defendant was charged with “obstruction of legal process with force or violence . . . and disorderly conduct” based on his encounter with officers conducting a traffic stop of his fiancé in front of his home. *Id.* at 912–14. After a jury found the defendant guilty, he appealed his obstructing-legal-process conviction and argued that “the district court erred because it did not instruct the jurors that they must unanimously agree on the specific conduct [he] committed that constituted obstruction of legal process.” *Id.* at 915, 917. The defendant “contend[ed] that the instructions should have required the jury to agree on which of [his] actions (the scene at the car, running away, or resisting in the house) constituted such obstruction.” *Id.* at 917–18. But the supreme court reasoned that, “[a]ccording to the statute, a person commits obstruction if he ‘obstructs,’ ‘hinders,’ ‘prevents,’ ‘resists,’ or ‘interferes.’” *Id.* at 919 (quoting Minn. Stat. § 609.50, subd. 1(1), (2) (2000)). Because “[t]hese behaviors are not inherently different types of conduct grouped under a single offense, and in [the defendant’s] case they were committed as part of a single behavioral incident[,]” the supreme court held that there was “no risk of unfairness in not requiring unanimity” and affirmed the defendant’s conviction. *Id.* “Because the jury instructions were not defective regarding the requirement for a unanimous jury,” the supreme court ruled that “the district court did not err and [that the court] need not determine whether the error was plain or whether it affected substantial rights.” *Id.*

This court applied similar reasoning in *Lagred*, in which “we turn[ed] to statutory interpretation to determine whether the phrase ‘is armed with a dangerous weapon . . . or

inflicts bodily harm upon another’ define[d] separate elements . . . of first-degree aggravated robbery, or alternative means of committing that offense.” 923 N.W.2d at 350. “Based on the plain language of the aggravated-robbery statute and the treatment of similar statutes[,] . . . we conclude[d] that the phrase . . . sets forth alternative means of committing a first-degree aggravated robbery, and not separate elements of that offense.” *Id.* at 354. We also considered “whether the legislature’s articulation of alternative means of committing first-degree robbery violate[d] due process” by analyzing whether “the means [were] distinct, dissimilar, or inherently separate,” deciding that “[t]he legislature’s penalty determination indicates that the alternatives in the aggravated-robbery statute reflect notions of similar blameworthiness and culpability, consistent with fundamental fairness.” *Id.*

Here, we conclude that the legislature considered the requisite predicate crimes under section 609.713, subdivision 1—including murder, assault with a dangerous weapon, and kidnapping—as inherently similar in the context of threats of violence. “A threat is a declaration of an intention to injure another or his property by some unlawful act.” *State v. Schweppe*, 237 N.W.2d 609, 613 (Minn. 1975). Section 609.713, subdivision 1, “requires that [the] defendant utter the threat with the purpose of terrorizing another.” *Id.* at 614. “Terrorize means to cause extreme fear by use of violence” *Id.* In *Lagred*, we analogously concluded that “the breadth of possible conduct embodied in the aggravated-robbery alternatives is narrow, and it includes behaviors that have similar degrees of seriousness.” 923 N.W.2d at 354.

The same logic applies here. The threats-of-violence statute prohibits a person from declaring an intention to injure another or his property by some unlawful act, with the purpose of causing extreme fear. Minn. Stat. § 609.713, subd. 1. Specifically, the threatened unlawful act must be a “crime of violence.” *Id.* And a “crime of violence” is a “violent crime,” as listed under section 609.1095, subdivision 1(d):

“Violent crime” means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: sections 152.137; 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.2112; 609.2113; 609.2114; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.322; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; and 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or Minnesota Statutes 2012, section 609.21.

Minn. Stat. § 609.1095, subdivision 1(d). Each of the listed offenses carries a felony sentence. Just like the aggravated-robbery statute in *Lagred*, each of these means—i.e., the enumerated violent crimes—reflect “notions of similar blameworthiness and culpability, consistent with fundamental fairness” when considered in the context of threatening to commit those offenses against another with the purpose of causing extreme fear. 923 N.W.2d at 354.

Thus, we conclude that section 609.713, subdivision 1, did not require the district court to instruct the jury to reach a unanimous decision about which predicate offenses the jury relied on in reaching its verdict, given the presentation of three alternative means set

forth in section 609.1095, subdivision 1(d). As in *Ihle*, “[b]ecause the jury instructions were not defective regarding the requirement for a unanimous jury,” we conclude that “the district court did not err and we need not determine whether the error was plain or whether it affected substantial rights.”³ 640 N.W.2d at 919.

Affirmed.

³ Because we conclude that the district court did not err by materially misstating the law, we would not reverse Abdelhakim’s conviction even if we were to apply the abuse-of-discretion standard of review. *See State v. Mahkuk*, 736 N.W.2d 675, 682 (Minn. 2007) (explaining that appellate courts “will not reverse a [district] court’s decision on jury instructions unless the [district] court abused its discretion” and that “[a]n instruction is error if it materially misstates the law” (quotation omitted)).