

*This opinion is nonprecedential except as provided by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
A24-0252**

In the Matter of the Welfare of: L. L. I., Child.

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

Carver County District Court
File No. 10-JV-23-151

Hennepin County District Court
File No. 27-JV-23-3316

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant L.L.I.)

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Mark Metz, Carver County Attorney, Hannah M. Hanlon, Assistant County Attorney, Chaska, Minnesota (for respondent State of Minnesota)

Considered and decided by Wheelock, Presiding Judge; Reyes, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges her stayed delinquency adjudication for third-degree assault, arguing that there was insufficient evidence to prove that the victim suffered substantial

bodily harm and that the state failed to prove that appellant was not acting in self-defense. We affirm.

FACTS

Appellant L.L.I. and M.C. have had a hostile relationship involving harassment and bullying since middle school. Their negative interactions culminated in an altercation on May 16, 2023, at a retail store in Chanhassen. At the time, L.L.I. was 17 years old and M.C. was nearly 17 years old. Each was accompanied by a friend.

The store's video surveillance footage shows M.C. and L.L.I. exchanging words near the women's clothing section and then separating. Subsequent surveillance footage from the store shows M.C. approach and reengage with L.L.I. and L.L.I.'s friend, J.S., at the self-checkout stations. L.L.I. and J.S. testified that M.C. verbally harassed them both with insults and expletives. At trial, M.C. admitted that the language she used was rude. Surveillance footage shows L.L.I. exiting the store. L.L.I. testified at trial that this was to remove herself from M.C., who continued to harass J.S. until he left the self-checkout station. M.C. followed J.S. as he exited the store.

M.C. called 911. In the audio recording of her call, M.C. claims that L.L.I. and J.S. were harassing her. L.L.I. was standing outside of the exit doors when J.S. walked out, followed by M.C., who remained on the phone with the 911 operator. As she walked near L.L.I., M.C. conspicuously told the 911 operator that "[L.L.I.'s] mom, I think, is a drug addict." L.L.I. then punched M.C., wrestled her to the ground, and slammed her head into the concrete sidewalk twice. J.S. pulled L.L.I. off of M.C., ending the altercation. M.C. remained on the phone with the 911 operator the whole time, and when the fight ended,

M.C. told the operator, “Hi, she just beat me up.” M.C. went to urgent care and received a CT scan, which did not show signs of brain injury. A few days later, M.C. visited her family doctor for follow-up. M.C.’s family doctor diagnosed her with a concussion, and at trial, M.C. testified that she experienced light sensitivity, headaches, nausea, and balance issues after the altercation.

Respondent State of Minnesota charged L.L.I. by juvenile-delinquency petition with third-degree assault inflicting substantial bodily harm, pursuant to Minn. Stat. § 609.223, subd. 1 (2022), and fourth-degree criminal damage to property pursuant to Minn. Stat. § 609.595, subd. 3 (2022), for damage to M.C.’s cell phone allegedly sustained during the altercation. At the court trial, the state presented testimony from M.C., M.C.’s family doctor, a store employee who witnessed the altercation, and a responding police officer. L.L.I. argued that she acted out of self-defense. To support her defense, she presented her own testimony, testimony from J.S., and testimony from a customer who witnessed the exchange at the self-checkout. The parties stipulated to admission of evidence including the store’s surveillance footage and the audio recording of M.C.’s 911 call.

After trial, the district court found L.L.I. guilty of third-degree assault inflicting substantial bodily harm because it found that M.C. suffered a concussion and it rejected L.L.I.’s theory of self-defense. The district court found that L.L.I. was not guilty of criminal damage to property. At the beginning of the memorandum accompanying its order, the district court stated that “it is important for the Court to describe the context of this offense . . . [M.C.] purposefully baited [L.L.I.] into a fight, with the express intention of getting her in trouble.” The district court provided detailed factual findings about the

history between the two young women, including M.C.’s race-based insults toward L.L.I., and stated that it “did not find much of [M.C.]’s testimony to be credible.” The district court also found that, although L.L.I. was the target of M.C.’s bullying, L.L.I. “participated in back-and-forth childish insults” and “wanted to fight [M.C.]” Describing the encounter in the store, the district court stated, “The best evidence suggests that [M.C.] called 911, knowing that she was going to bait [L.L.I.] into a fight, so that she could get [L.L.I.] in trouble by falsely claiming that [L.L.I.] was harassing her and threatening to fight her.” The district court’s order concluded its analysis finding L.L.I. guilty of third-degree assault by saying,

Although [M.C.] baited [L.L.I.] into fighting by calling her mom a drug user, [L.L.I.] was clearly the aggressor under the law. . . . The circumstances present an explanation for why [L.L.I.] reacted the way she did, but that explanation does not amount to a legal defense for her actions.

L.L.I. appeals.

DECISION

L.L.I. raises two issues on appeal. First, she argues that this court should reverse her stayed adjudication because there was not sufficient evidence in the trial record to support the district court’s determination that M.C. suffered substantial bodily harm, an element of third-degree assault under Minn. Stat. § 609.223, subd. 1. Second, she argues that the state failed to prove she was not acting in self-defense. We address each argument in turn.

I. The state provided sufficient evidence to support the district court's determination that M.C. suffered substantial bodily harm.

L.L.I. argues that the evidence at trial was insufficient to prove that M.C. suffered substantial bodily harm because the district court discredited M.C.'s testimony about losing consciousness, M.C.'s CT scan did not show signs of brain injury, and M.C.'s concussion diagnosis was based on self-reported symptoms. The state argues that the evidence supports the district court's finding that M.C. suffered a concussion, caselaw demonstrates a concussion can be substantial bodily harm, and this court cannot dismiss the district court's finding that certain parts of M.C.'s testimony about her symptoms were credible.

Appellate courts apply the same standard of review to evaluate the sufficiency of the evidence in court and jury trials. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). This standard applies in juvenile and non-juvenile matters. *See In re Welfare of S.A.M.*, 570 N.W.2d 162, 167 (Minn. App. 1997) (applying this standard of review to a juvenile-delinquency proceeding). Appellate courts review the sufficiency of the evidence by “carefully examin[ing] the record to determine whether the facts and the legitimate inferences drawn from them would permit the [district court] to reasonably conclude that the defendant was guilty beyond a reasonable doubt.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). Appellate courts view the evidence in a light most favorable to the decision and assume “the fact-finder disbelieved any evidence that conflicted with the [decision].” *Id.*

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. Harris*,

895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Witness testimony “is direct evidence when it reflects a witness’s personal observations and allows the [district court] to find the defendant guilty without having to draw any inferences.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016). Video can be direct evidence. *See State v. McCormick*, 835 N.W.2d 498, 507 (Minn. App. 2013), *rev. denied* (Minn. Oct. 15, 2013). When direct evidence supports a disputed element of an offense, appellate review is limited to a “painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the [disposition], was sufficient to permit the [district court] to reach the [decision] which [it] did.” *Horst*, 880 N.W.2d at 39-40 (quotation omitted).

A person commits assault in the third degree when they (1) assault another person and (2) inflict substantial bodily harm. Minn. Stat. § 609.223, subd. 1. “Substantial bodily harm” is “bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.” Minn. Stat. § 609.02, subd. 7a (2022). Whether an injury constitutes substantial bodily harm is a question for the fact-finder. *See State v. Moore*, 699 N.W.2d 733, 737 (Minn. 2005) (stating, in the context of first-degree assault, that whether an injury constitutes great bodily harm is a question for the fact-finder).

In determining that the state proved the substantial-bodily-harm element of L.L.I.’s assault offense, the district court relied on direct evidence, including testimony, surveillance footage, the 911-call recording, and photographs of injuries. The surveillance footage shows L.L.I. grabbing M.C.’s head and slamming it into the concrete two times.

M.C. testified about her symptoms following the altercation, including light sensitivity, headaches, nausea, and balance issues, and the district court credited that portion of her testimony. The district court also credited the family doctor's testimony that she diagnosed M.C. with a concussion and found that M.C. "suffered a temporary but substantial impairment to her brain's functioning." We defer to the credibility determinations of the district court. *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992), *aff'd*, 508 U.S. 366 (1993).

Although L.L.I. correctly notes that the district court found that M.C. did not lose consciousness, that fact does not prohibit it from determining that substantial bodily harm occurred. Persuasive caselaw¹ demonstrates that substantial bodily harm can occur when a victim suffers a concussion without losing consciousness. *See, e.g., State v. Bowles*, No. A15-1144, 2016 WL 3042985, at *1-2 (Minn. App. May 31, 2016) (concluding that bruises and a concussion can constitute substantial bodily harm, even when a victim's testimony is not credible and a CT scan shows no injuries), *rev. denied* (Minn. Aug. 23, 2016); *State v. Ayala*, No. A13-2322, 2014 WL 7236931, at *3-5 (Minn. App. Dec. 22, 2014) (concluding that blood loss, a hematoma, and doctor testimony that the victim exhibited concussion symptoms were sufficient to support a determination of substantial bodily harm), *rev. denied* (Minn. Mar. 17, 2015).

The record shows, without inference or presumption, that M.C. (1) was diagnosed with a concussion, (2) suffered headaches, (3) sustained bleeding where her head hit the

¹ "Nonprecedential opinions . . . may be cited as persuasive authority." Minn. R. Civ. App. P. 136.01, subd. 1(c).

ground, (4) experienced nausea, (5) experienced light sensitivity, and (6) experienced issues with her balance. Thus, the evidence, when viewed in a light most favorable to the decision, supports the district court’s finding that M.C. suffered a concussion and ongoing symptoms. Persuasive caselaw supports the district court’s determination that those injuries constitute substantial bodily harm as defined in Minn. Stat. § 609.02, subd. 7a.

Because the evidence in the record supports the district court’s determination that L.L.I. inflicted substantial bodily harm on M.C., we conclude that the evidence was sufficient to support L.L.I.’s stayed adjudication for third-degree assault.

II. The state provided sufficient evidence to support the district court’s determination that L.L.I. did not act in self-defense during the altercation.

L.L.I. next argues that the state provided insufficient evidence to show that she did not act in self-defense. L.L.I. maintains that her past relations with M.C., combined with M.C.’s offensive conduct, gave cause for her conduct. The state argues that L.L.I. cannot claim self-defense because she was the initial aggressor and that, even if she could claim it, the state disproved each element.

Minnesota Statutes section 609.06, subdivision 1(3), provides that “reasonable force may be used upon or toward the person of another without the other’s consent” when someone is “resisting or aiding another to resist an offense against the person.” Minn. Stat. § 609.06, subd. 1(3) (2022). To raise self-defense, the proponent must make a threshold showing of the following elements: (1) the absence of aggression or provocation on the part of the proponent; (2) the proponent’s actual and honest belief that they were in imminent danger of bodily harm; (3) the existence of reasonable grounds for that belief;

and (4) the absence of a reasonable possibility of retreat to avoid the danger. *State v. Radke*, 821 N.W.2d 316, 324 (Minn. 2012). Once the defense is raised, the state must disprove at least one of these elements beyond a reasonable doubt. *Id.* An initial aggressor cannot raise this defense unless they withdraw from the confrontation. *Bellcourt v. State*, 390 N.W.2d 269, 272 (Minn. 1986). An “initial aggressor” begins or induces an incident by engaging in activity that is a “good deal greater than mere conversation.” *State v. Carridine*, 812 N.W.2d 130, 145 (Minn. 2012) (quoting *State v. Edwards*, 717 N.W.2d 405, 412 (Minn. 2006)).

We again review the sufficiency of the evidence by “carefully examin[ing] the record to determine whether the facts and the legitimate inferences drawn from them would permit the [district court] to reasonably conclude that the defendant was guilty beyond a reasonable doubt,” viewing the evidence in a light most favorable to the decision, and assuming that “the fact-finder disbelieved any evidence that conflicted with the [decision].” *Griffin*, 887 N.W.2d at 263. We also apply the principles set forth above regarding direct evidence.

Video surveillance captured the altercation between L.L.I. and M.C. from start to finish. The footage shows that L.L.I. did not withdraw from the altercation with M.C. but returned to it and was the first to physically engage in more than “mere conversation” by punching M.C. in the face, wrestling her to the ground, and slamming her head into the concrete twice. Testimony supports L.L.I.’s assertion that, on the evening of May 16, 2023, M.C. was disrespectful and crude. However, M.C. presented no need for L.L.I. to resist an offense against herself or J.S. The direct evidence in the record shows that L.L.I.

was the initial aggressor. *See Carridine*, 812 N.W.2d at 145; *Bellcourt*, 390 N.W.2d at 272. Because the record, when viewed in the light most favorable to the decision, demonstrates that L.L.I. was the initial aggressor in the altercation, we do not reach her remaining arguments relating to her assertion of self-defense. Although M.C.'s conduct was designed to provoke L.L.I. into responding, L.L.I. cannot raise a self-defense claim as the initial aggressor, and therefore, the district court did not err in determining that L.L.I. did not act in self-defense.

Affirmed.