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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0325**

State of Minnesota,
Respondent,

vs.

Fredi Amilcar Sun Chajon,
Appellant.

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

Dakota County District Court
File No. 19HA-CR-22-2827

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

Kathryn M. Keena, Dakota County Attorney, Stephen Grego, Assistant County Attorney,
Hastings, Minnesota (for respondent)

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

Considered and decided by Cochran, Presiding Judge; Ross, Judge; and Harris,
Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant challenges his conviction of attempted second-degree intentional murder,
in violation of Minnesota Statutes section 609.19, subdivision 1(1) (2022), arguing that the
evidence is insufficient to support his conviction. Alternatively, appellant argues that the

district court abused its discretion by not considering his motion for a downward durational departure. Appellant raises additional arguments in a pro se supplemental brief. We affirm.

FACTS

In November 2022, respondent State of Minnesota charged appellant Fredi Amilcar Sun Chajon by amended complaint with attempted second-degree intentional murder, in violation of Minnesota Statutes section 609.19, subdivision 1(1); second-degree assault, in violation of Minnesota Statutes section 609.222, subdivision 2 (2022); and first-degree assault, in violation of Minnesota Statutes section 609.221, subdivision 1 (2022).¹ The complaint alleged that police responded to an intersection where they found the victim, M.L., lying in the middle of the road. M.L. told police that Chajon was driving and pointed a knife at her face and told her he wanted her dead or back in her country of origin and made threats about killing her family. M.L. also told police that Chajon pushed her out of the vehicle while it was still moving. Police found a steak knife and M.L.'s belongings in the intersection where M.L. was found. After a contested omnibus hearing, the district court dismissed the first-degree assault charge for lack of probable cause. Chajon waived his right to a jury trial and proceeded with a court trial.

¹ The state initially charged Chajon with two counts of second-degree assault, in violation of Minnesota Statutes section 609.222, subdivisions 1 and 2. The first amended complaint omitted the statutory citation for attempt, Minnesota Statutes section 609.17 (2022), and included the incorrect penalty. Following the contested omnibus hearing, the district court concluded that these were technical errors because the charging language and probable cause statement reflected the state's intent to charge attempted second-degree intentional murder. The technical errors were corrected by the district court's order amending the complaint. Chajon does not raise arguments related to the amended complaint on appeal.

At trial, M.L. testified about her relationship with Chajon and what occurred on November 19 and 20, 2022. M.L. testified that on the night of the incident, Chajon picked her up from her apartment and they went to the bank to deposit money he had given her to pay the family's phone bill. Next, M.L. and Chajon went out for food and dancing, and then went to Chajon's house where they engaged in consensual sexual intercourse. Around 4:00 a.m. the next morning, Chajon started driving M.L. home but stopped and parked in an apartment complex and asked her about her relationship with another man. M.L. explained that the other man was just helping her find an apartment. Chajon said, "I cannot believe what you did." He told her that "if [she] wasn't going to belong to him, [she] was not going to belong to anyone. That he would rather [she] was dead." M.L. testified that she said, "don't kill me," and "[t]hink about our daughters." Then Chajon leaned over and grabbed a kitchen knife. M.L. testified that she didn't "remember exactly what the knife looked like, but it was from [her] kitchen," and was "one of the ones that you use to eat, to cut meat." She stated it was "sky blue," with "little leaves," and later described the knife as "white," the color of her cup. M.L. testified that Chajon was holding the knife with both hands and was moving to put the knife in her chest. M.L. tried to fight him off and "was begging for [her] life." Then, Chajon stated, "I'm not going to kill you," and described a plan to have M.L. deported. Chajon threatened to kill M.L.'s family, and said "[i]f you say something, they're going to kill them."

M.L. testified that Chajon started driving with his left hand and used his right hand to point the knife at her chest. M.L. removed her seatbelt and was able to open the door. Chajon noticed, grabbed her blouse, pulled it, and accelerated the car while moving the knife

around. M.L. and Chajon engaged in a physical struggle, and M.L. tried to take the knife. M.L. testified that she received cuts on her fingers, and Chajon punched her in the face and pushed her out of the vehicle.

The state later called detective N.S, who testified about her investigation and M.L.'s prior consistent account of events. The state also called M.L.'s brother, who described M.L.'s living situation and M.L. and Chajon's relationship. He testified that he remembered M.L. leaving to be with Chajon on the night of the incident. The state also offered video footage evidence showing M.L. leaving her apartment complex that evening. A bystander testified to finding M.L. in the intersection and calling 911.

Several law enforcement officers testified about their work on the case. Officer M.R. testified about first responding to the scene. Officer A.N. testified about taking photographs of evidence, including a knife and M.L.'s belongings, at the scene. Officer C.W. testified about his work on the Dakota County Drug Task Force, and his work locating Chajon following the offense. Officer M.C. testified about his involvement in the arrest of Chajon. Officer K.S. testified about translating M.L.'s statements made to law enforcement from Spanish to English. And detective W.B. testified about identifying Chajon as the suspect, collecting surveillance video, identifying Chajon's vehicle, and interviewing Chajon.

Surveillance footage from a business near the intersection where M.L. was found and Chajon's interview with law enforcement were admitted as evidence. M.L.'s medical records were admitted through a clinical psychologist who treated M.L. when she was in

the hospital following the offense. The defense did not call any witnesses and Chajon waived his right to testify.

The district court found Chajon guilty of attempted second-degree intentional murder and not guilty of second-degree assault. The district court found that the state did not prove any aggravating sentencing factors beyond a reasonable doubt. In its written order, the district court found that Chajon and M.L. were previously in a romantic relationship and had two children. On the evening of November 19, 2022, Chajon picked up M.L. from her home and they drove to the bank. Then, Chajon and M.L. went to a restaurant for food and dancing. They returned to Chajon's home where they had consensual sex. Chajon began driving M.L. home, but then turned into an apartment complex and parked. Chajon confronted M.L. about her relationship with another man, became angry, and brandished a knife used for cutting meat. Chajon told M.L. he was going to kill her. Chajon pressed the knife towards M.L.'s chest, and M.L. resisted and begged Chajon not to kill her. Chajon then said he would not kill M.L. but described a plan to get M.L. deported and threatened to kill M.L.'s family. Chajon started to drive back to his house, while keeping the knife pointed at M.L. M.L. unbuckled her seatbelt, quietly opened the car door, and planned to jump out of the car. M.L. was ejected from the vehicle, but "the testimony is unclear as to how." The district court did not make explicit credibility determinations generally, but credited M.L.'s description of the events in its findings.

At sentencing, Chajon moved for a downward durational departure and argued for a sentence in the 74- to 103-month range because "the knife attack in the vehicle that [Chajon] was found responsible for, left relatively minor injuries that were not life-

threatening, and he did abandon the attempted murder.” The state argued for a sentence of 183-and-one-half months, which was at the top of the box of the sentencing guidelines. After listening to the victim-impact statement and arguments from counsel, the district court imposed a 183-month executed sentence. The district court did not directly explain its reasons for denying Chajon’s departure motion. Chajon appeals.

DECISION

I. There is sufficient direct evidence to support Chajon’s conviction of attempted second-degree intentional murder.

Chajon argues that his attempted second-degree intentional murder conviction must be reversed because there is insufficient evidence that he acted with the specific intent to kill.

When evaluating the sufficiency of the evidence, we will “uphold the district court’s finding[s] if, based on the evidence contained in the record, the [district] court could reasonably have found [the] defendant guilty of the crime charged.” *State v. Vasko*, 889 N.W.2d 551, 558 (Minn. 2017) (quotation omitted). “The evidence must be viewed 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) (quotation omitted). “We use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

Chajon argues that we should evaluate the sufficiency of the evidence by applying the two-step analysis for circumstantial evidence and contends that the circumstantial

evidence is inconsistent with the alternative rational hypothesis that Chajon intended to cause bodily injury, not death. The state argues that direct evidence established Chajon's intent to kill the victim. For the reasons discussed below, we conclude that Chajon's statements are direct evidence of his intent, and the evidence is sufficient to support the conviction.

To be found guilty of attempted second-degree intentional murder, the state must prove beyond a reasonable doubt that the defendant attempted to "cause[] the death of a human being with intent to effect the death of that person or another, but without premeditation." Minn. Stat. § 609.19, subd. 1(1). To prove attempt, the state must prove the defendant, "with intent to commit a crime, [did] an act which [was] a substantial step toward, and more than preparation for, the commission of the crime." Minn. Stat. § 609.17, subd. 1. "The phrase 'with intent to' is commonly used by the Legislature to express a specific-intent requirement." *State v. Fleck*, 810 N.W.2d 303, 308–09 (quoting *State v. Mullen*, 577 N.W.2d 505, 510 (Minn. 1998)). The state must prove that the defendant "either ha[d] a purpose to do the thing or cause the result specified or believe[d] that the act, if successful, [would] cause that result." Minn. Stat. § 609.02, subd. 9(4) (2022). The only disputed element here is whether Chajon had the specific intent to kill M.L.

Because intent is a state of mind, it is generally proved by considering a defendant's act in context. *State v. Thompson*, 544 N.W.2d 8, 11 (Minn. 1996). Intent may be proved from circumstantial evidence "by drawing inferences from the defendant's words and actions in light of the totality of the circumstances," and from the victim's reaction to a threat. *State v. Smith*, 825 N.W.2d 131, 136-37 (Minn. App. 2012) (quotation omitted).

Although intent is frequently proven by circumstantial evidence, intent may also be proved by direct evidence. *State v. Jones*, 4 N.W.3d 495, 501 (Minn. 2024).

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). Circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted). “[C]ircumstantial evidence always requires an inferential step to prove a fact that is not required with direct evidence.” *Id.* (citing *State v. Silvernail*, 831 N.W.2d 594, 604 (Minn. 2013)).

Here, the state used both direct and circumstantial evidence to prove Chajon’s intent. The direct evidence included M.L.’s description of Chajon’s statements and conduct. M.L. and Detective N.S. testified that Chajon told M.L., “if [she] wasn’t going to belong to him, [she] was not going to belong to anyone,” and “that he would rather [she] was dead.” The circumstantial evidence included the circumstances surrounding M.L.’s and Chajon’s relationship, M.L.’s reaction to Chajon’s statements and conduct, and Chajon’s statements and conduct following the incident.

In reviewing cases where the state relied on both direct and circumstantial evidence to prove a disputed element, the supreme court has held that “when a disputed element is sufficiently proven by direct evidence alone . . . it is the traditional standard, rather than the circumstantial-evidence standard, that governs.” *Jones*, 4 N.W.3d at 500 (quoting *State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016)). When reviewing the sufficiency of the evidence under the traditional standard, we conduct “a painstaking analysis of the record

to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *Horst*, 880 N.W.2d at 40 (quotation omitted).

In *Horst*, the supreme court concluded that appellant’s statement, “I want him dead,” to multiple witnesses was direct evidence of her intent to commit first-degree premeditated murder. 880 N.W.2d at 40. The supreme court also noted that appellant’s other statements “such as, ‘we can do this’ and ‘how many rounds did you put in him,’” was direct evidence that appellant had acknowledged that the shooter would kill the victim. *Id.* Because there was direct evidence of each element of the offense, the supreme court applied the traditional standard and held that the evidence was sufficient to support the conviction. *Id.* at 40-41.

In *Jones*, the supreme court concluded that there was sufficient evidence to support appellant’s conviction for second-degree assault because appellant’s statements were direct evidence of his intent to use a board as a dangerous weapon in a manner likely to cause great bodily harm. 4 N.W.3d at 501. The state’s evidence demonstrated that appellant brandished a wooden board near the victim while simultaneously stating, “I’m going to beat her bloody.” *Jones*, 4 N.W.3d at 500. The supreme court concluded that appellant’s “statements about how he planned to use the board, made during the timeframe when [appellant] brandished the board while [the victim] was lying on the floor, require no inference to determine [appellant’s] intended use of the board,” and noted the contemporaneous timing of the statements aided the court in reaching its conclusion. *Id.* at 501.

Here, Chajon does not attempt to distinguish his statements from those in *Horst* and *Jones*. Like *Horst* and *Jones*, Chajon’s statements that “if [M.L.] wasn’t going to belong to him, [M.L.] was not going to belong to anyone,” and “that he would rather [M.L.] was dead,” made while Chajon was brandishing a knife and in control of a vehicle, are direct evidence of his intent to kill M.L. This evidence required the district court to make no inference on if or how Chajon intended to kill M.L. Therefore, this direct evidence was sufficient to convict Chajon of attempted second-degree intentional murder.

Chajon argues that three of the district court’s findings were clearly erroneous and that the district court made no credibility findings yet seemed to base many of its factual findings on M.L.’s testimony. First, Chajon argues that the district court’s finding that the knife had “a sky-blue colored handle with a little leaf design on it,” was clearly erroneous because it conflicts with a photograph the state introduced into evidence that shows a knife with a brown, wooden handle.² Second, Chajon argues that M.L. testified that she blocked the knife with her hands and had cuts on her fingers, but this conflicts with the lack of blood evidence in the vehicle. Third, Chajon argues that M.L.’s testimony about Chajon’s statements is distinctly different from the district court’s finding that “Chajon told M.L. he was going to kill her.” These arguments are unavailing.

Although, Chajon argues that several of the district court’s findings are contradicted by other evidence, we must assume that the fact-finder disbelieved any testimony

² M.L. also testified that the knife was “one of the ones you use to eat, to cut meat,” and that the knife was white, similar to the color of a cup that she was pointing at in the courtroom. This testimony was consistent with photograph of the knife admitted at trial, which depicts a kitchen knife with a wooden handle.

conflicting with the verdict. *Id.* at 500 (stating that, although a witness gave conflicting testimony about whether appellant said anything during the moment's surrounding the assault, the evidence must be viewed in the light most favorable to the verdict). Additionally, "a conviction can rest on the uncorroborated testimony of a single credible witness." *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). And even though the district court did not make explicit credibility findings, the district court's findings of fact suggest that it found M.L.'s testimony, at least in part, credible. *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. 2009) (stating that a district court's factual findings may "implicitly indicate" that it found testimony credible). In sum, when looking at the evidence in the light most favorable to the verdict, there is sufficient evidence to support Chajon's conviction of attempted second-degree intentional murder.

II. The district court did not abuse its discretion by denying Chajon's motion for a downward durational departure.

Alternatively, Chajon argues that the district court abused its discretion by not considering his motion for a downward durational departure. The Minnesota Sentencing Guidelines prescribe a sentence or sentencing range that is "presumed to be appropriate." Minn. Sent'g Guidelines 2.D.1 (2022). "A sentencing court 'must pronounce a sentence within the applicable range unless there exist identifiable, substantial, and compelling circumstances' that distinguish a case and overcome the presumption in favor of the guidelines sentence." *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014) (quoting Minn. Sent'g Guidelines 2.D.1). "Substantial and compelling circumstances are those circumstances that make the facts of a particular case different from a typical case." *State*

v. Olson, 765 N.W.2d 662, 664 (Minn. App. 2009) (quotation omitted). “A downward durational departure is justified only if the defendant’s conduct was significantly less serious than that typically involved in the commission of the offense.” *State v. Solberg*, 882 N.W.2d 618, 624 (Minn. 2016) (quotation omitted); Minn. Sent’g Guidelines 2.D.3 (2022) (providing a “nonexclusive list of factors” that a district court may use to depart).

We review the district court’s denial of a sentencing departure for an abuse of discretion. *Solberg*, 882 N.W.2d at 623. And we “will not ordinarily interfere with a sentence falling within the presumptive sentence range, either dispositionally or durationally, even if there are grounds that would justify departure.” *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (quotation omitted). However, “[w]hen the record contains evidence of factors supporting departure, which could have been, but were not, considered by the district court, we may remand for consideration of those factors.” *State v. Johnson*, 831 N.W.2d 917, 925-26 (Minn. App. 2013) (citing *State v. Curtiss*, 353 N.W.2d 262, 264 (Minn. App. 1984)), *rev. denied* (Minn. Sept. 17, 2013).

Chajon argues that the record contains legitimate reasons for departure, but the district court abused its discretion by not “deliberately considering [the] circumstances for and against departure.” *State v. Mendoza*, 638 N.W.2d 480, 483 (Minn. App. 2002), *rev. denied* (Minn. Apr. 16, 2002). Chajon argues that the district court did not “reach the merits of the departure motion as it did not address the motion and arguments.” The state argues that the district court adequately considered the departure motion because “the district court began the sentencing hearing by reciting the relevant filings,” and the district

court “heard a victim impact statement, sentencing arguments from both parties, and allocution from Chajon.” We agree with the state.

In *Curtiss*, the district court denied appellant’s motion for a downward durational departure and imposed the presumptive sentence because it found that “there were no legitimate reasons for departure.” 353 N.W.2d at 263. This court concluded that legitimate reasons for departure did exist, and that appellant’s conduct was “barely within the scope of the serious charge of burglary in the first degree.” *Id.* Accordingly, the district court erred by “putting aside arguments for departure rather than considering them alongside valid reasons for non-departure.” *Id.* at 264 (quotation omitted).

Unlike *Curtiss*, the record here demonstrates that the district court properly considered Chajon’s argument and then exercised its discretion to impose the presumptive sentence. *See State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (holding that a sentence at the top of the range provided in the sentencing grid is not a departure), *rev. denied* (Minn. July 20, 2010). The district court started the sentencing hearing by stating, “[t]here is a victim impact statement in both Spanish and English, a restitution study, which requested no restitution, a presentence investigation, a sentencing guidelines worksheet, a durational departure motion[,] [a]nd ... the dispositional advisor memorandum.” Although the district court did not expressly acknowledge reviewing each of these documents, this statement demonstrates that the district court reviewed the record prior to the sentencing hearing. When defense counsel raised the issue of the presentence investigation containing facts copied and pasted from the complaint, the district court stated, “I noticed that as well,” which is further evidence that the district court reviewed

the record. The district court also listened to the victim-impact statement, sentencing arguments from counsel, and allocution from Chajon before imposing the presumptive sentence, implicitly denying the durational departure motion.

In sum, the record establishes that the district court considered the departure motion and was aware it had discretion to depart, but chose to impose the presumptive sentence. Because the district court imposed the presumptive sentence, it was not required to further explain its reasoning. *See State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985) (“[A]n explanation is not required when the [district] court considers reasons for departure but elects to impose the presumptive sentence.”). Therefore, the district court did not abuse its discretion in denying Chajon’s motion for a downward durational departure.

III. Chajon’s pro se arguments lack merit.

Chajon raises additional arguments in a pro se supplemental brief. Chajon argues that his constitutional rights were violated under the Fifth, Sixth, Thirteenth, and Fourteenth Amendments. Chajon arguments center on his claim that the photograph of the knife introduced by the state at trial is “false” and “tainted” evidence because the photograph depicts a “tan knife,” but M.L. testified that the knife used to commit the offense was “sky blue.” Chajon argues that his conviction and sentence is a void judgment because (1) the district court abused its discretion by allowing the photograph of the knife into evidence, and effectively commanded a directed verdict by not intervening; (2) the district court lacked subject matter jurisdiction because the evidence was insufficient, as he was accused of using a tan knife during the alleged criminal act, which conflicted with M.L.’s testimony that a sky blue knife was used; (3) his due process rights were violated

because he was not given notice of the state’s intent to introduce a photograph of a tan knife, which conflicted with testimony elicited by the state at trial; and (4) he received ineffective assistance of counsel because his defense counsel did not object to the introduction of the photograph of the knife or to the directed verdict.

We conclude that Chajon’s directed-verdict, subject-matter-jurisdiction, and due-process arguments lack merit because the district court did not abuse its discretion by allowing the photograph of the knife into evidence. *See State v. Waiters*, 929 N.W.2d 895, 902 (Minn. 2019) (stating that the reviewing court need not include detailed discussion of pro se claims that lack merit). “Evidentiary rulings concerning materiality, foundation, remoteness, relevancy, or the cumulative nature of the evidence are within the [district] court’s sound discretion and will only be reversed when that discretion has been clearly abused.” *Johnson v. Washington County*, 518 N.W.2d 594, 601 (Minn. 1994) (quotation omitted). The photograph of the knife was relevant to whether Chajon attempted to stab M.L. because law enforcement found a steak knife in the road near M.L. and the knife matched M.L.’s description of a kitchen knife used “to cut meat.” *See* Minn. R. Evid. 401 (stating that relevant evidence has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence”). Chajon’s arguments go to the weight the district court gave the evidence in light of M.L.’s testimony and not to its admissibility.

Similarly, Chajon’s ineffective-assistance-of-counsel claim also lacks merit. To prevail on a claim of ineffective assistance of counsel, a defendant “must affirmatively prove that his counsel’s representation ‘fell below an objective standard of reasonableness’

and ‘that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.’” *Gates v. State*, 398 N.W.2d 558, 561 (Minn. 1987) (quoting *Strickland v. Washington*, 466 U.S. 668, 694 (1984)). Chajon argues that his counsel’s failure to object to the admission of the photograph of the tan knife or to the directed verdict constitutes ineffective assistance of counsel. However, “there is a strong presumption that counsel’s performance was reasonable, and this court does not review matters of trial strategy, or the particular tactics used by counsel.” *State v. Hokanson*, 821 N.W.2d 340, 358 (Minn. 2012) (quotation omitted). And Chajon does not argue how his defense counsel’s failure to object fell below an objective standard of reasonableness.

Affirmed.