

*This opinion is nonprecedential except as provided by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
A24-1531**

State of Minnesota,
Respondent,

vs.

Francis Gregory Halling,
Appellant.

**Filed September 2, 2025
Affirmed
Ede, Judge**

Wright County District Court
File No. 86-CR-22-4688

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

Brian A. Lutes, Wright County Attorney, Jennifer K. Buske, Assistant County Attorney,
Buffalo, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Kathryn J. Lockwood, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bond, Presiding Judge; Slieter, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

Appellant challenges the sufficiency of the evidence supporting his disorderly
conduct conviction. We affirm.

FACTS

Appellant Francis Gregory Halling received a citation charging him with disorderly conduct, in violation of Minnesota Statutes section 609.72, subdivision 1(3) (2022). The matter proceeded to a jury trial. Consistent with applicable law, the following recitation of facts is based on the trial evidence and is described in a light most favorable to the jury's verdict.

On the evening of September 27, 2022, Halling was walking with his three young children and a wagon on a public sidewalk in front of M.P.'s home. M.P. was sitting outside on his front porch with his wife. As he approached M.P.'s home, Halling yelled something about a "dog-eat-dog" or "doggy-dog" world and began laughing. Because all the homes in the neighborhood had small front yards and were very close to the sidewalk, Halling was approximately 15 feet away from M.P. and his wife when he walked in front of their home. After Halling passed, he turned back and exclaimed, "F-cker a-- punks. Yep, I'm talking to you, [P]."¹ A moment later, Halling said, "Let's go y'all." But rather than leave, Halling stopped, spat loudly, and yelled, "B--ch a-- punk a-- f-ckers." Halling then continued to walk away while making "a menacing laugh." Halling's speech and conduct were noisy and "very loud." One of the children was crying and another said, "You're scaring me, Daddy."

¹ Although M.P. testified that he did not know if Halling yelled the singular or plural form of M.P.'s last name, M.P. used the plural form of his last name in describing what Halling had called out and stated: "[I]t was very clearly yelled to us."

Believing that Halling might turn around to walk by his home again, M.P. and his wife went inside their home; M.P. locked the doors because Halling's "behavior was erratic and [M.P.'s] wife and kids were in the house." Halling's speech and conduct made M.P. feel startled, upset, unsafe, threatened, and alarmed; it disturbed what had been a peaceful night. Based on his tone and cursing, Halling's speech was offensive, obscene, boisterous, and abusive. In addition, Halling's conduct—in particular, his spitting—was offensive, abusive, and boisterous. M.P. called 911 to report the incident, two deputies were dispatched to M.P.'s home, and M.P. provided the deputies with a video recording that had captured the incident.

At trial, respondent State of Minnesota presented testimony by M.P. and a deputy sheriff who had responded to M.P.'s 911 call. The state also offered the video recording as an exhibit. The district court received the exhibit and played the video recording for the jury. Halling testified. He acknowledged that he had yelled "punk a--," "b-tch a--," and "f-cker," and he admitted that he had said, "Yeah, I'm talking to you, [P]."² Halling conceded that he had spat, and he agreed that walking while spitting and shouting curses was offensive, obscene, abusive, and noisy. He also acknowledged that his speech was offensive, obscene, and abusive, and he admitted that his conduct would alarm or anger a reasonable person.

After the jury found Halling guilty of disorderly conduct, the district court entered a final judgment of conviction. The district court ordered Halling to serve 90 days in jail,

² In his testimony, Halling claimed that he used the singular version of M.P.'s last name.

but Halling had credit for one day that he had already served, and the court stayed the remaining 89 days for one year, placing Halling on supervised probation for that time. This appeal follows.

DECISION

Halling challenges the sufficiency of the evidence supporting his conviction of disorderly conduct.

When reviewing the sufficiency of the evidence, appellate courts “conduct a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the jury to reach its verdict.” *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017) (quotation omitted). Appellate courts “assume that the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Loveless*, 987 N.W.2d 224, 246 (Minn. 2023) (quotation omitted). The court “will not disturb the verdict if the fact-finder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *State v. McCarthy*, 659 N.W.2d 808, 810 (Minn. App. 2003).

Minnesota Statutes section 609.72, subdivision 1(3) provides that whoever “engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others,” while “knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct.” Disorderly conduct charges “must be closely scrutinized.” *State v.*

Klimek, 398 N.W.2d 41, 42 (Minn. App. 1986). “Whether particular conduct constitutes disorderly conduct depends on the facts and circumstances of each case.” *Id.* at 43.

Halling contends that the conduct at issue consisted only of offensive language, that the state was therefore required to prove that his language constituted fighting words, and that the state failed to do so. *See McCarthy*, 659 N.W.2d at 810–11 (“[A] conviction of disorderly conduct cannot be predicated only on a person’s words unless those words are fighting words.” (quotation omitted)). But the trial evidence establishes that Halling’s conviction was based on his conduct, as well as the offensive and abusive manner in which he spoke, regardless of the content of his speech. We therefore consider the sufficiency of that evidence to support Halling’s conviction. *See id.* at 811 (“In determining if [appellant’s] actions were sufficient to support a conviction of disorderly conduct, [appellate courts] view [appellant’s] words, coupled with his conduct and physical movements, and measure them as a package against the controlling statute.” (quotation omitted)); *see also In re Welfare of M.A.H.*, 572 N.W.2d 752, 757 (Minn. App. 1997) (“[A] defendant’s words are considered as a package in combination with conduct and physical movements, viewed in light of the surrounding circumstances.” (quotation omitted)).

Our decision in *McCarthy* is instructive. McCarthy was attending his son’s football game when he disputed a call by the referee. *McCarthy*, 659 N.W.2d at 809. The referee approached McCarthy, told him that his comments needed to stop, and said that he otherwise should leave. *Id.* McCarthy “became loud and boisterous and told the referee that he was not going to leave and placed his hands on the referee.” *Id.* at 809–10. The referee asked McCarthy to take his hands off him three times before McCarthy complied.

Id. at 810. After McCarthy declined to leave, the referee called the police, who responded and likewise requested that McCarthy depart, but McCarthy again refused. *Id.* During the incident, others at the game heard McCarthy call a spectator an “ass----” as she walked in front of him. *Id.* McCarthy was charged with and convicted of disorderly conduct after a court trial. *Id.*

In an appeal challenging the sufficiency of the evidence, we reasoned that McCarthy’s conviction was not based solely on his use of curse words. *Id.* at 811. “The circumstances surrounding McCarthy’s comment included causing interruption of the football game, placing his hands on the referee, and refusing to leave when asked.” *Id.* We therefore concluded that “it was reasonable for the district court to conclude that McCarthy’s actions and language caused alarm and resentment in the spectators present and therefore constituted disorderly conduct.” *Id.*

Here, viewing the evidence in a light most favorable to the verdict, we conclude that the record is sufficient to sustain Halling’s disorderly conduct conviction. After Halling passed within approximately 15 feet of M.P. and his wife, he yelled that they were “[f]cker a-- punks,” making clear that he was directing his insult at them by emphatically stating, “Yep, I’m talking to you [P].” Halling also stopped, spat noisily, loudly called M.P. and his wife “[b]--ch a-- punk a-- f-ckers,” and finally walked away while making “a menacing laugh.” M.P. heard one of Halling’s children crying and another say, “You’re scaring me, Daddy.” In response to the way Halling spoke and conducted himself—which made M.P. feel upset, threatened, startled, unsafe, and alarmed—M.P. and his wife went inside their home, locked the doors, and called 911. Given both M.P.’s and Halling’s trial

testimonies, it is undisputed that Halling’s speech and conduct were offensive, obscene, abusive, and noisy—behavior that Halling conceded would alarm or anger a reasonable person. And the way Halling spoke and conducted himself disturbed an otherwise peaceful night. Thus, as in *McCarthy*, it was reasonable for the jury to find that Halling’s “actions and language caused alarm and resentment in the [others] present and therefore constituted disorderly conduct.” *Id.*

In sum, based on our careful review of the trial evidence, we conclude that the record sufficiently supports Halling’s disorderly conduct conviction.

Affirmed.