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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1708**

State of Minnesota,
Respondent,

vs.

Alan Orv Weaver,
Appellant.

**Filed October 20, 2025
Affirmed
Harris, Judge**

St. Louis County District Court
File No. 69DU-CR-23-3044

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Kimberly J. Maki, St. Louis County Attorney, Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Stacy L. Bettison, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Schmidt, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant challenges the sufficiency of the evidence supporting his threats-of-violence conviction. We affirm.

FACTS

Following an altercation at a bus stop in Duluth, respondent State of Minnesota charged appellant Alan Orv Weaver by amended complaint with one count of threats of violence under Minnesota Statutes section 609.713, subdivision 1 (2022).¹ The matter proceeded to a jury trial. Consistent with applicable law, the following facts summarize the trial evidence and are presented in a light most favorable to the jury's verdict.

One afternoon in November 2023, J.V. and his partner, N.S., went grocery shopping in downtown Duluth. J.V. has Autism Spectrum Disorder and has a service dog, a German Shepherd, named Brutus. Brutus was on a leash and wearing a vest indicating that he was a service animal. While in the grocery store, J.V. experienced sensory overload, so he went outside while N.S. finished shopping. Then, the couple went to a nearby bus stop to go home. J.V. and N.S. sat on a bench at the bus stop. Another man, K.P., was standing on the opposite side of the bus shelter. J.V. still felt "very on edge," and stressed from his experience in the grocery store.

Weaver arrived at the bus stop and was playing loud, classic-rock music on a speaker. Weaver put the speaker down on the window ledge inside of the bus shelter and then walked around, looking at the ground. J.V. asked Weaver to turn off or turn down the music about three or four times. Weaver laughed and shook his head. Then, J.V. walked over, picked up the speaker, and threw it on the ground. Weaver went over to J.V., the two exchanged words, and J.V. pushed Weaver in the chest. K.P. observed J.V. calling Weaver

¹ Weaver was also charged with, and later found not guilty of second-degree assault, under Minn. Stat § 609.222, subd. 1 (2022).

names and being hostile toward Weaver for being homeless. Weaver was calm and did not show any aggression in response to his speaker being thrown or J.V.'s behavior.

Then, J.V. walked into the street towards the speaker. J.V. threw the speaker again and then walked to the other side of the street. J.V. testified that Weaver followed him across the street. As he was crossing, Weaver pulled out a knife and “started holding it over his head like this (demonstrating) and winding.”² K.P. testified that Weaver pulled out the knife as he was backing up in response to Brutus barking. K.P. believed that Brutus scared Weaver and he assumed Weaver pulled the knife out because of the dog. J.V. testified that Brutus did not bark. Weaver was less than two feet away from J.V., and J.V. saw the knife up close. The knife was pointed down towards J.V.'s chest. The closest the knife got to J.V.'s chest was between 12 and 18 inches.

A bystander with a skateboard saw Weaver holding the knife above his head and pointed at J.V. while J.V.'s back was turned. The bystander intervened by holding his skateboard in the air and yelling at Weaver. The bystander did not see Brutus “being violent.”

J.V. was scared because he thought Weaver was going to stab him or his dog. He went back to the bus-stop bench and called 911. Weaver went back to the opposite side of the bus shelter near K.P. While J.V. was talking to the 911 operator, Weaver still had the knife in his hand. Approximately two minutes after returning to the bus shelter, Weaver

² At trial J.V. moved his arm up and down over his head to demonstrate the “winding” motion.

put the knife away and smoked a cigarette. Weaver also “dust[ed] off his speaker,” and alternated between “sitting back” and “laying down on the ground.”

Law enforcement arrived, arrested Weaver, and took the knife into evidence. As a responding officer approached J.V. to interview him, Brutus barked and jumped. The officer exclaimed, “Jesus Christ,” in response. The officer reacted because he was startled when Brutus, a large dog, started barking. The officer saw J.V. holding Brutus’s harness and did not believe that J.V. was going to let go.

After the jury found Weaver guilty of threats of violence, the district court entered a final judgment of conviction and imposed a 24-month sentence, stayed for three years.³ Weaver appeals.

DECISION

The evidence is sufficient to support Weaver’s threats-of-violence conviction because the circumstances proved are not consistent with a reasonable hypothesis other than guilt.

Weaver argues that his threats-of-violence conviction is not supported by sufficient evidence. When, as here, a conviction rests on circumstantial evidence, “we apply a heightened two-step standard” to determine whether the evidence is sufficient. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). The first step is to identify the set of circumstances proved by the state. *Id.* To identify the circumstances proved, “we winnow down the evidence presented at trial to a subset of facts that is consistent with the jury’s

³ During sentencing, the district court stated, “[J.V.] was the instigator. He was the antagonist and frankly, he was a downright bully. Anybody else, he would have been charged with assault, destruction of property, disorderly conduct, but I would guess that [J.V.] made a good witness.”

verdict and disregard evidence that is inconsistent with the jury’s verdict.” *State v. Gilleylen*, 993 N.W.2d 266, 275 (Minn. 2023) (quotations omitted). We “resolv[e] all questions of fact in favor of the jury’s verdict.” *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017) (quotation omitted). But when “circumstances are uncontroverted, come from a state witness, and are not necessarily contradictory to the verdict, they constitute circumstances proved.” *State v. German*, 929 N.W.2d 466, 473 (Minn. App. 2019).

The second step is “to determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt.” *Loving*, 891 N.W.2d at 643. We view the circumstances proved “as a whole and not as discrete, isolated facts,” and independently determine the reasonableness of all inferences that could be drawn. *State v. Smith*, 9 N.W.3d 543, 565 (Minn. 2024); *Loving*, 891 N.W.2d at 643 (quotation omitted). A conviction is supported by sufficient evidence if the circumstances proved “form[] a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *State v. Petersen*, 910 N.W.2d 1, 7 (Minn. 2018) (quotation omitted). If the circumstances proved are consistent with a reasonable hypothesis other than guilt, we will reverse the conviction. *Id.*

A person is guilty of threats of violence when they “threaten[], directly or indirectly, to commit any crime of violence with purpose to terrorize another . . . or in a reckless disregard of the risk of causing such terror.” Minn. Stat. § 609.713, subd. 1. “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). “A threat may be communicated by

actions or words.” *State v. Smith*, 825 N.W.2d 131, 135 (Minn. App. 2012) (citing *State v. Murphy*, 545 N.W.2d 909, 916 (Minn. 1996)). Whether a person’s conduct is a threat depends on whether the conduct, viewed in context, “would have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *Id.* (quotation omitted). But “the threat[] must be to commit a *future* crime of violence which would terrorize a victim.” *Murphy*, 545 N.W.2d at 916.

When viewing the record in the light most favorable to the guilty verdict, we identify the following circumstances proved. J.V. and his partner were at the bus stop after grocery shopping. J.V. had a service dog, a German Shepherd named Brutus, with him. Brutus was on a leash and wearing a vest identifying him as a service animal. While shopping, J.V. was overstimulated and left the store. J.V. was still in a heightened state while at the bus stop. Weaver, and another individual, K.P., were also at the bus stop. Weaver was playing loud music on a speaker. J.V. asked Weaver to turn the music down or off three or four times. Weaver laughed and shook his head. The speaker was sitting on the window ledge of the bus shelter. J.V. got up and threw the speaker into the road and sat back down on the bench. Weaver went over to J.V. The two exchanged words, and J.V. pushed Weaver in the chest. J.V. got up and walked into the road and picked up the speaker. At some point, J.V. threw the speaker again. Weaver followed J.V. across the street and pulled out a knife. Weaver held the knife at a 90-degree angle above his head and was “winding” the knife. Weaver pointed the knife at J.V.’s chest, getting 12 to 18 inches at the closest. A bystander intervened and Weaver and J.V. went back to opposite sides of the bus stop. J.V. was scared and went back to the bus-stop bench and called 911. When J.V. was talking

to the 911 operator, Weaver was still holding the knife. About two minutes later, Weaver put the knife away and smoked a cigarette. Weaver also “dust[ed] off his speaker,” and alternated between “sitting back” and “laying on the ground.” Law enforcement arrived, arrested Weaver, and took the knife into evidence. Brutus had been by J.V.’s side and calm during the entire incident. But as a responding officer approached J.V. to interview him, Brutus barked and jumped. The officer exclaimed, “Jesus Christ,” in response. The officer reacted because he was startled when Brutus, a large dog, started barking. The officer saw J.V. holding Brutus’s harness and did not believe that J.V. was going to let go.

A. It is unreasonable to infer from the circumstances proved that Weaver raised the knife in a defensive posture or was merely expressing transitory anger.

Weaver does not seem to dispute that a reasonable inference from the circumstances proved is that Weaver threatened to assault J.V. with the intent to terrorize him or consciously disregarded the risk that his actions may cause terror. Instead, he argues that the evidence is insufficient because there are two reasonable inferences other than guilt—that Weaver raised the knife in a defensive posture in response to Brutus barking or that he raised the knife in transitory anger in response to J.V. harassing him and destroying his property.

The threats-of-violence statute does not apply to “the kind of verbal threat which expresses *transitory anger*, which lacks the intent to terrorize.” *State v. Jones*, 451 N.W.2d 55, 63 (Minn. App. 1990) (quotation omitted), *rev. denied* (Minn. Feb. 21, 1990). But even if a person does not have the intent to terrorize, the threats-of-violence statute also applies

when a person recklessly causes another extreme fear and they “act in conscious disregard of that risk.” *State v. Mrozinski*, 971 N.W.2d 233, 240 (Minn. 2022).

A “fact-finder may infer that a person intends the natural and probable consequences of that person’s actions.” *State v. Colgrove*, 996 N.W.2d 145, 152 (Minn. 2023). Intent may also be inferred “from events occurring before and after the crime,” and “the effect of the assault on the victim.” *Davis v. State*, 595 N.W.2d 520, 526 (Minn. 1999); *State v. Hough*, 585 N.W.2d 393, 396 (Minn. 1998).

When analyzing the circumstances proved, we conclude that they are not consistent with a reasonable inference that Weaver intended only to protect himself from Brutus or to merely express transitory anger. While Brutus is a large dog, Brutus was on a leash and wearing a vest indicating he was a service animal. He also was calm and remained at J.V.’s side for at least the entire seven-minute incident until law enforcement arrived. And even if Weaver was scared of the dog, this is not inconsistent with guilt. *See State v. Lampkin*, 994 N.W.2d 280, 288 (Minn. 2023) (reaffirming the principle that “nonlethal self-defense can only be invoked when a person is threatened with bodily harm”).

While it is reasonable to infer from the circumstances proved that Weaver was upset because J.V. threw his speaker and harassed him, it is not reasonable to infer that raising the knife was merely an expression of transitory anger. Until he pulled out the knife, Weaver was calm and did not show any aggression in response to his speaker being thrown or J.V.’s behavior. Weaver followed J.V. across the street, raised a knife at his chest, and kept the knife out after the two separated and returned to the bus stop. Weaver’s conduct was not simply a “verbal threat,” but involved raising a knife at J.V. who was unarmed.

See Smith, 825 N.W.2d at 137 (concluding that appellant's action of waiving a pocket knife and a kitchen knife at the victim while demanding money was not a verbal threat resulting from transitory anger). The natural and probable consequences of this action is that pointing the knife at J.V.'s chest would terrorize him. *Colgrove*, 996 N.W.2d at 152. Accordingly, we conclude that the only reasonable inference from the totality of the circumstances proved is that when he raised the knife at J.V., Weaver intended to terrorize J.V. or consciously disregarded the risk of causing terror.

B. A jury could reasonably find that Weaver threatened to commit a future crime of violence against J.V.

Weaver also argues that his conduct does not constitute threats of violence as a matter of law because the evidence is inconsistent with both second-degree assault, which requires an *imminent* threat, and threats of violence, which requires a threat to commit *future* violence. In other words, he argues that the state did not present sufficient evidence that he threatened to commit a future crime of violence.

Relying on *State v. Olson*, 887 N.W.2d 692 (Minn. App. 2016), Weaver argues that we should apply the de novo standard of review. But because Weaver does not raise a question of statutory interpretation and instead argues that the evidence is insufficient to support his conviction, we apply a sufficiency-of-the-evidence standard to determine whether the jury could reasonably conclude that Weaver's conduct was a threat to commit a future crime of violence. *State v. Metcalfe*, 13 N.W.3d 704, 710-12 (Minn. App. 2024), *rev. denied* (Minn. Jan. 21, 2025).

The jury acquitted Weaver of second-degree assault. Thus, the dispositive question is whether his threats-of-violence conviction is supported by sufficient evidence. Weaver relies on our nonprecedential decision, *State v. Brevik*, No. A08-0070, 2009 WL 817532 (Minn. App. Mar. 31, 2009), to argue that the evidence is insufficient because it does not support a reasonable inference that he threatened to commit a future crime against J.V. In *Brevik*, a husband drove his van at his wife twice in a manner suggesting he was willing to hit her with it. *Id.* at *1. We reversed Brevik’s conviction, concluding that there was nothing about Brevik’s act of driving the van towards his wife “that provides a basis for a jury to reasonably conclude that he threatened to commit a future crime.” *Id.* at *4.

Like *Brevik*, Weaver argues that his conduct implied only an imminent threat, if any, and notes that the state pursued a second-degree assault charge accordingly, of which he was acquitted. Weaver argues that a jury could not reasonably conclude his conduct was a threat of a future crime because the two individuals involved were strangers, it was a short interaction, and he was in a defensive posture responding to the dog and his property being destroyed. We disagree.

Our decision in *Smith* is instructive. 825 N.W.2d at 135-37. In *Smith*, we considered whether a man who waved a pocketknife at the victim from about four feet away while demanding money during “an ongoing confrontation” engaged in conduct threatening to commit a future act of violence. *Id.* at 135-36. We concluded that “appellant’s conduct constituted a threat to assault [the victim] with the knife in the future if he did not comply with his demand for money.” *Id.* at 136. The conviction was supported by sufficient evidence, including that appellant entered the victim’s apartment without permission;

argued with the victim, kicked the victim, refused to leave, waved a pocket knife at the victim while demanding money, and appeared angry. *Id.* at 137. We noted that, while appellant threatened the victim with the knife during an ongoing confrontation, the supreme court “has never defined a specific amount of time that must pass before a threat of immediate violence becomes a threat of future violence.” *Id.* at 136. And the threats-of-violence statute “is intended to deter and punish both appellant’s act of waving the knife at [the victim] while demanding money as well as appellant’s future assault of [the victim].” *Id.*; see also *Murphy*, 545 N.W.2d at 916 (“It is the future act threatened, as well as the underlying act constituting the threat, that the statute is designed to deter and punish.”).

The same reasoning applies here. Weaver followed J.V. across the street, raised the knife above his head, and pointed the knife at J.V., approximately 12 to 18 inches from J.V.’s chest. As J.V. called 911, Weaver remained at the bus stop with the knife in his hand before eventually putting it away and smoking a cigarette. From these facts, a jury could reasonably find that Weaver was willing to stab J.V., but was restraining himself, and threatened to engage in future violence if the situation escalated again. Although the jury acquitted Weaver of second-degree assault, suggesting that it did not find that Weaver’s threat to assault J.V. was imminent, it was not unreasonable for the jury to find Weaver intended to commit a future crime of violence.

In sum, Weaver’s threats-of-violence conviction is supported by sufficient evidence because the only reasonable inference from the circumstances proved is that Weaver intended to terrorize J.V. or consciously disregarded this risk when he raised the knife, and

a jury could reasonably infer that Weaver intended to commit a future, not an imminent, crime of violence.

Affirmed.