

*This opinion is nonprecedential except as provided by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
A25-0065**

State of Minnesota,
Respondent,

vs.

Dean Marty Oelkers,
Appellant.

**Filed January 26, 2026
Affirmed
Cochran, Judge**

Dakota County District Court
File No. 19HA-CR-23-2374

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

Kathryn M. Keena, Dakota County Attorney, Stacy St. George, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Gina D. Schulz, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Chief Judge; Worke, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Following a stipulated-evidence court trial, appellant was convicted of felony solicitation of a child to engage in sexual conduct. In this direct appeal, appellant argues that the stipulated evidence was insufficient to support his conviction. We affirm.

FACTS

In November 2023, respondent State of Minnesota charged appellant Dean Marty Oelkers with soliciting a child to engage in sexual conduct in violation of Minnesota Statutes section 609.352, subdivision 2 (2022). The complaint alleged that Oelkers solicited his 12-year-old granddaughter (the child) “to engage in sexual conduct with intent to engage in sexual conduct” in violation of section 609.352, subdivision 2.

Following the district court’s denial of Oelkers’s motion to dismiss for lack of probable cause, Oelkers waived his right to a jury trial and agreed to submit the case to the district court for a court trial on stipulated evidence under Minnesota Rule of Criminal Procedure 26.01, subdivision 3.¹ The stipulated evidence included: police reports; a video recording of the forensic interview with the child, as well as a transcript of that interview; an audio recording of the child’s 911 call; and a body-worn camera video of Oelkers’s interview with the police. The following facts are drawn from the stipulated evidence.

On November 2, Oelkers was high on methamphetamine while spending time with the child. Oelkers recently relapsed on methamphetamine and stated that methamphetamine “totally changes [him].” Oelkers told police that methamphetamine “ma[de] [him] want [to] . . . have sex *all the time*.” (Emphasis added.) Oelkers also stated that he acted on his sexual desires when he was high on methamphetamine in the past.

¹ Under this rule, by agreement of the parties, “a determination of the defendant’s guilt . . . may be submitted to and tried by the court based entirely on stipulated facts, stipulated evidence, or both.” Minn. R. Crim. P. 26.01, subd. 3(a). “If the court finds the defendant guilty based entirely on the stipulated facts, stipulated evidence, or both, the defendant may appeal from the judgment of conviction and raise issues on appeal as from any trial to the court.” *Id.*, subd. 3(f).

On the day in question, Oelkers took the child to the gas station. After returning home, Oelkers asked the child to come into his bedroom and then locked the door behind them. Oelkers asked the child if “she wanted some more money” and told her that “she had to get naked.” Oelkers offered her \$100 per week to take off her clothes. The child refused. Oelkers offered to pay the child money to keep the incident a secret. The child again refused and told Oelkers that she was going to call the police. Oelkers gave the child some money and apologized. Oelkers then left the home in his car. After Oelkers left, the child called a family member and then called the police.

Law enforcement responded to the home, where the child reported these events involving Oelkers. Several days later, the child participated in a recorded forensic interview with a social worker. The child’s account of events during the interview largely mirrored her report to law enforcement. During the interview, the child stated that she felt like Oelkers was a “child predator.” Oelkers corroborated the child’s description of his conduct in his *Mirandized*² police interview.³

Based on the stipulated evidence, the district court found Oelkers guilty of the charged offense. The district court determined that, “The evidence supports the conclusion that [Oelkers] solicited [the child] to engage in sexual conduct.” It found that Oelkers

² To protect a defendant’s right against self-incrimination, law enforcement must implement “procedural safeguards” prior to subjecting the defendant to custodial interrogation, which includes informing the defendant of the right to remain silent and have an attorney present. *Miranda v. Arizona*, 384 U.S. 436, 444, 478-79 (1966).

³ In his brief, Oelkers states that, “The details of Oelkers’s statement differ slightly from his granddaughter’s, but not in any important respect.”

offered the child money to persuade her to remove her clothes, which “squarely fits under the definition of solicit.” And it further found that Oelkers “acted with the intent to engage in sexual conduct” as demonstrated by Oelkers’s admission that he was “sexually charged and high on methamphetamine when he solicited [the child].” The district court reasoned that, “Paying a child . . . money to fully undress into a state of nakedness is an act—in and of itself—which infers sexual intent.” Furthermore, the district court found that the evidence did not provide an alternative explanation for Oelkers’s actions.

The district court imposed a stay of imposition and placed Oelkers on supervised probation for five years.

Oelkers appeals.

DECISION

Due process requires the state to prove each element of a crime beyond a reasonable doubt. *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023); *see* U.S. Const. amend. XIV; Minn. Const. art. I, § 7. Oelkers was convicted of soliciting a minor to engage in sexual conduct under section 609.352, subdivision 2, which provides that “[a] person 18 years of age or older who solicits a child . . . to engage in sexual conduct with intent to engage in sexual conduct is guilty of a felony.” Accordingly, the state was required to prove beyond a reasonable doubt that Oelkers was over 18 years of age; that he solicited a child to engage in sexual conduct; and that he did so with intent to engage in sexual conduct. Minn. Stat. § 609.352, subd. 2. Under section 609.352, the term “‘child’ means a person 15 years of age or younger.” *Id.*, subd 1(a) (2022). “[S]exual conduct’ means sexual contact of the individual’s primary genital area, sexual penetration . . . , or sexual

performance” *Id.*, subd. 1(b) (2022). And “solicit” is defined as “commanding, entreating, or attempting to persuade a specific person.” *Id.*, subd. 1(c) (2022).

Oelkers does not dispute that, at the time of the offense, he was over 18 years of age and the child was under the age of 15. But he argues the stipulated evidence is insufficient to prove beyond a reasonable doubt that he solicited an act of sexual conduct or that he did so with intent to engage in sexual conduct with the child. With these two arguments in mind, we turn to our standard of review.

Standard of Review

When considering a challenge to the sufficiency of the evidence, an appellate court conducts “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 [fact-finder] to reach its verdict.” *Lapenotiere v. State*, 916 N.W.2d 351, 360-61 (Minn. 2018) (quotation omitted). An appellate court applies the same standard of review to a sufficiency-of-the-evidence challenge following a court trial that we apply following a jury trial. *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009).

The supreme court has adopted two different standards of review or “tests for evaluating a sufficiency-of-the-evidence claim”—the traditional standard and a heightened standard. *State v. Jones*, 4 N.W.3d 495, 500 (Minn. 2024). “The relevant standard of review depends on whether the factfinder (the district court here) reached its conclusion of law based on direct or circumstantial evidence.” *State v. Petersen*, 910 N.W.2d 1, 6 (Minn. 2018). “[D]irect 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).

The traditional standard applies when a disputed element is proved by direct evidence. *Jones*, 4 N.W.3d at 500. “But when a disputed element of the offense is proven by circumstantial evidence, a heightened two-step analysis standard of review applies.” *Id.* This heightened two-step standard is called the circumstantial-evidence standard of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). Because the parties agree the state relied on circumstantial evidence to prove the disputed elements of the offense, we analyze Oelkers’s arguments under the heightened circumstantial-evidence standard.

Under the circumstantial-evidence standard, the first step is to identify the circumstances proved. *Harris*, 895 N.W.2d at 600 (quotation omitted). In doing so, we “winnow down the evidence presented at trial by resolving all questions of fact in favor of the [fact-finder’s] verdict, resulting in a subset of facts that constitute ‘the circumstances proved.’” *Id.* (quotation omitted). “[W]e defer to the [fact-finder’s] acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the [s]tate.” *State v. Allwine*, 963 N.W.2d 178, 186 (Minn. 2021) (quotation omitted).

At the second step, we “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt, not simply whether the inferences that point to guilt are reasonable.” *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013) (quotations omitted). At this stage, we give no deference to the

fact-finder's verdict. *Loving*, 891 N.W.2d at 643. “[R]ather, we independently examine the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with a hypothesis other than guilt.” *Id.* (quotation omitted). “To sustain [a] conviction [under the circumstantial-evidence standard], the circumstances proved, when viewed as a whole, must be consistent with a reasonable inference that the accused is guilty and inconsistent with any rational hypothesis except that of guilt.” *Harris*, 895 N.W.2d at 601.

We address each step in turn.

Circumstances Proved

The circumstances proved based on the stipulated evidence are as follows. On November 2, 2023, Oelkers was high on methamphetamine. Oelkers is a user of methamphetamine. Oelkers stated that methamphetamine “totally changes [him].” For Oelkers, methamphetamine “ma[de] [him] want [to] . . . have sex *all the time*.” (Emphasis added.) Oelkers acknowledged that he acted on his sexual desires when he was high on methamphetamine in the past.

While high on methamphetamine, Oelkers invited the child into his bedroom and locked the door behind them. The child stated this was not something Oelkers normally did. Oelkers asked the child if she wanted money and told her to get naked. Oelkers offered to pay the child \$100 per week to take off her clothes. When the child refused, Oelkers offered her money to remain silent. The child told Oelkers that she was going to call the police. Oelkers left the home in his car. After Oelkers left, the child called a family

member and then called the police. The child told the forensic interviewer that Oelkers's actions made her feel that he was a "child predator."

Reasonable Inferences from Circumstances Proved

We next consider whether the circumstances proved are consistent with a reasonable inference that Oelkers is guilty and inconsistent with any rational hypothesis except that of guilt. As Oelkers's concedes, the circumstances proved are consistent with a reasonable inference of guilt because one can infer that Oelkers solicited the child not just to take off her clothes, but also to engage in sexual conduct with her, and that he had intended to engage in sexual conduct. "Intent is an inference drawn by the [finder of fact] from the totality of circumstances." *State v. Welch*, 675 N.W.2d 615, 619 (Minn. 2004) (quotation omitted).

Oelkers argues that an alternative, rational hypothesis exists other than guilt. Specifically, that he solicited only nudity and that nudity, by itself, is not "sexual conduct" prohibited by Minnesota Statutes section 609.352, subdivision 2.⁴

Oelkers is correct that nudity by itself does not constitute "sexual conduct" for purposes of section 609.352. Minn. Stat. § 609.352, subd. 1(a). Accordingly, we consider

⁴ Oelkers urges us to limit our analysis to whether solicitation of nudity is solicitation of a lewd exhibition of the genitals and, therefore, a sexual performance. *See State v. Plancarte*, 20 N.W.3d 30, 41 (Minn. 2025) (interpreting the term "lewdly" in the indecent-exposure statute). This argument ignores the statute as a whole and attempts to focus solely on the portion of the statute criminalizing the use of minors in a sexual performance. *See State v. Riggs*, 865 N.W.2d 679, 683 (Minn. 2015) (directing courts to "construe a statute as a whole and interpret its language to give effect to all of its provisions"). Reading the statute as a whole, the evidence is sufficient to sustain the verdict beyond a reasonable doubt. Thus, Oelkers's reliance on *Plancarte* is misplaced and we need not address his argument that nudity alone does not constitute a sexual performance under the statute.

whether Oelkers’s alternative hypothesis—that he solicited only nudity—is a reasonable inference that might be drawn from the circumstances proved. *Harris*, 895 N.W.2d at 601. We conclude that it is not.

“Solicitation, like the offer to engage in sexual conduct for hire, is an inchoate activity which permits application of [section 609.352] to conduct that is in some degree ambiguous.” *State v. McGrath*, 574 N.W.2d 99, 102 (Minn. App. 1998) (quotation omitted), *rev. denied* (Minn. Apr. 14, 1998). “Inchoate offenses are incipient acts that are criminal only because they are likely to lead to the commission of another offense.” *State v. Moser*, 884 N.W.2d 890, 904 (Minn. App. 2016). “With inchoate crimes, we criminalize behavior that is preliminary or anticipatory in nature.” *Id.* Therefore, a statute that proscribes inchoate activity “is likely to be applied to conduct which is in some degree ambiguous.” *State v. Bennett*, 258 N.W.2d 895, 897 (Minn. 1977). Whether a defendant engaged in an inchoate activity, such as solicitation of a child to engage in sexual conduct, “may be implied from the words and actions of the defendant taken in context.” *Id.* (noting that solicitation need not be explicit and may be inferred from the defendant’s conduct); *see also McGrath*, 574 N.W.2d at 102 (recognizing that solicitation of a minor need not “rest solely on the words appellant spoke”).

Here, Oelkers’s contention that he only solicited nudity, and nothing more, is not reasonable based on the circumstances proved as a whole. Oelkers admitted that he was high on methamphetamine on the day in question, which makes him want to have sex all the time. Additionally, while in this state, Oelkers invited the child into his bedroom,

locked the door, and offered her money to take her clothes off. He also admitted that he acted on his sexual desires when high on methamphetamine in the past.

His alternative hypothesis—that he offered to pay the child money only to take her clothes off—ignores that when he is on methamphetamine, he “wants to . . . have sex all the time” and he acts on his sexual desires. And “sexual conduct” as used in section 609.352 includes both “sexual contact of the individual’s primary genital area” and “sexual penetration,” which is consistent with Oelkers’s admission that when he uses methamphetamine he wants to have sex all the time. *See* Minn. Stat. § 609.352, subd. 1(b). Given the circumstances proved, it is not rational to conclude that Oelkers solicited only nudity and had no intent to engage in sexual conduct. *See, e.g., McGrath*, 574 N.W.2d at 102 (noting that a determination that the appellant engaged in solicitation did not “rest solely on the words appellant spoke” but also required the court to “examine the conduct which accompanied appellant’s words”). The only reasonable inference that can be drawn from the circumstances proved, taken as a whole, is that Oelkers offered to pay the child money in exchange for sexual conduct and intended to engage in sexual conduct with the child. Accordingly, there is no rational, alternative hypothesis other than guilt. *See Harris*, 895 N.W.2d at 601.

We therefore conclude that the circumstantial evidence was sufficient to find Oelkers guilty of solicitation of a child to engage in sexual conduct.

Affirmed.