

*This opinion is nonprecedential except as provided by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
A25-0212**

State of Minnesota,
Respondent,

vs.

Patrick Michael Remer,
Appellant.

**Filed February 2, 2026
Affirmed
Johnson, Judge**

Wright County District Court
File No. 86-CR-22-490

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

Brian A. Lutes, Wright County Attorney, Jennifer K. Buske, Ashley Liestman, Shane Simonds, Assistant County Attorneys, Buffalo, Minnesota (for respondent)

John P. Lesch, Lesch Law Firm, L.L.C., St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Ede, Judge; and Jesson, Judge.*

*Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A Wright County jury found Patrick Michael Remer guilty of mistreatment of an animal based on evidence that he injured a dog. We conclude that the district court did not err by allowing sheriff's deputies to testify that, based on their observations of the dog, it appeared that the dog had been hit or struck. We also conclude that the evidence is sufficient to support the conviction. Therefore, we affirm.

FACTS

During the evening of January 25, 2022, Remer called 911 to request assistance with a domestic dispute between him and his partner, D.S., at the home they shared. Two sheriff's deputies responded to the call. At the time, Remer was caring for a dog. After entering the home, the deputies noticed that the dog was injured. One deputy testified at trial that the dog's face "appeared to have been struck" because "there was swelling" and one of the dog's eyes "was bulging out." The other deputy testified that the dog's face appeared to have been "hit in the left side" because the inner membranes of the dog's left eye were "poking out" and "very swollen." A veterinarian who had treated the dog testified that the dog suffered fractures of two skull bones, apparently due to a blunt-force trauma.

The state initially charged Remer with making a threat of violence, in violation of Minn. Stat. § 609.713, subd. 1 (2020), and misdemeanor domestic assault, in violation of Minn. Stat. § 609.2242, subd. 1(2) (2020). Approximately one year later, the state amended the complaint by adding a charge of misdemeanor mistreatment of an animal by torture, in violation of Minn. Stat. § 343.21, subd. 1 (2020).

The case was tried to a jury on three days in May 2024. The state called five witnesses and introduced several exhibits, including photographs of the dog's injuries.

With respect to the charge of mistreatment of an animal, D.S. testified as follows. In January 2022, she lived with Remer at his home in Albion Township. Remer cared for a Blue Heeler dog named Buddy, which previously had belonged to his father. During the evening of January 24, 2022, the night before Remer called 911, Buddy appeared to be fine. That evening, she "heard the dog whimpering" and heard Remer "yelling at the dog," apparently in a different room of the home. "Then all the sudden [she] didn't hear the dog no more." The next day, D.S. noticed that one of Buddy's eyes was red and "protruding," that "his face was . . . swollen and . . . hurt," and that he was not as active as usual. She asked Remer what happened to Buddy, and he said, "I guess I got a little rough with him." Only D.S. and Remer were present at the home between January 24, 2022, and the evening of January 25, 2022. D.S. testified that she had never hit the dog.

The state also called the two deputies who responded to the 911 call. Both testified that, while at the home, they observed what appeared to be an injury to the left side of the dog's face. One deputy testified that the dog's face "appeared to have been struck" because he observed swelling and a "bulging" eye on the dog's face. The other deputy testified that the dog's "face appeared swollen . . . like it had been hit" and that the left eye was swollen and the inner membranes were protruding.

The state also called a veterinarian who examined Buddy on January 26, 2022, the day after the 911 call. The veterinarian testified that she diagnosed Buddy as having a fractured orbital bone and a fractured zygomatic arch, two bones in the eye socket and the

upper part of the cheek. The veterinarian testified that Blue Heeler dogs were bred for herding large animals and, thus, have especially strong skull bones that can generally withstand a kick from a large animal. The veterinarian testified that it would take a large amount of force to cause the fractures she diagnosed and that she had not seen an injury like Buddy's in her 19 years of practice. On cross-examination, Remer's attorney asked the veterinarian whether Buddy could chew on a bone with his injury, and the veterinarian testified that she would expect him to not want to do so or to chew with the right, uninjured side of his mouth.

Remer called two witnesses. One witness testified that she was at Remer's home the night of January 25, 2022, to watch Buddy and that, the next morning, she made a videorecording of Buddy chewing on a bone. The videorecording was introduced into evidence and appears to show Buddy chewing on a bone on both sides of his mouth. The other defense witness testified that he had observed Remer with Buddy on several occasions and that Remer was "very, very caring" toward Buddy. Remer did not testify. After the close of evidence, Remer moved for a judgment of acquittal on counts 1 and 3. The district court denied the motion.

The jury found Remer not guilty of making threats of violence but found him guilty of domestic assault and mistreatment of an animal. Remer renewed his motion for a judgment of acquittal, and the district court denied the motion. The district court imposed concurrent sentences of 90 days in jail, of which 75 days were stayed, and placed Remer on probation for two years. Remer appeals.

DECISION

I. Lay Opinion Testimony

Remer first argues that the district court erred by admitting the deputies' testimony that Buddy appeared to have been "hit" or "struck."

Remer did not object to the deputies' testimony at trial. In the absence of an objection, this court reviews only for plain error. *See* Minn. R. Crim. P. 31.02; *State v. Chavez-Nelson*, 882 N.W.2d 579, 589 (Minn. 2016). Under the plain-error test, an appellant is entitled to relief only if (1) there is an error, (2) the error is plain, and (3) the error affects the appellant's substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If these three requirements are satisfied, appellate courts will provide appellate relief only if necessary to ensure the "fairness, integrity, or public reputation of judicial proceedings." *Pulczynski v. State*, 972 N.W.2d 347, 356 (Minn. 2022). If an appellate court concludes that any requirement of the plain-error test is not satisfied, the appellate court need not consider the other requirements. *State v. Brown*, 815 N.W.2d 609, 620 (Minn. 2012).

Remer's argument is governed by a rule of evidence that provides:

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness; (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Minn. R. Evid. 701. This court applies an abuse-of-discretion standard of review to a district court's evidentiary rulings. *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019).

Remer challenges the admissibility of the deputies' testimony on the ground that their opinions or inferences are not rationally based on their perceptions. *See* Minn. R. Evid. 701(a). Remer asserts that an animal could have a swollen face or eye for any number of reasons and that a lay witness could testify that an animal was hit or struck only if the witness saw someone engage in such conduct.

The deputies did not testify with certainty that Buddy had been hit or struck. One deputy testified that Buddy's face "appeared to have been struck," and the other deputy testified that Buddy's face "appeared swollen . . . like it had been hit." More importantly, the deputies explained the perceptions that caused them to believe that Buddy appeared to have been hit or struck. One deputy testified that Buddy had a "bulging" eye, and the other deputy testified that Buddy's left eye was swollen and that the inner membranes of the eye were protruding. These details provide a solid basis for the testimony that Buddy "appeared" to have been hit or struck. Furthermore, neither deputy testified about who hit or struck Buddy.

Remer's argument is contrary to this court's caselaw. In *State v. Washington*, 725 N.W.2d 125 (Minn. App. 2006), *rev. denied* (Minn. Mar. 20, 2007), a 911 operator testified about a call in which a woman reported that she had been assaulted by a man. *Id.* at 129. The operator testified that, based on sounds in the background, she believed that the caller was being assaulted again while talking to the operator. *Id.* This court affirmed the admission of the operator's testimony pursuant to rule 701 because the witness's testimony "was rationally based on her perceptions and was helpful to the jury." *Id.* at 137 (quotation omitted). Similarly, in *State v. Pak*, 787 N.W.2d 623 (Minn. App. 2010), a sheriff's deputy

testified that, when he arrived at the scene of a domestic dispute, the alleged victim was upset, was crying, had red marks on her neck, and was holding her right wrist or arm. *Id.* at 626. The deputy testified further that he concluded that the woman “had been assaulted.” *Id.* This court affirmed the admission of that testimony pursuant to rule 701 because “the deputy’s testimony in this case was based on his rational perceptions and helped the jury to make a determination of the facts in issue by illustrating his observations of the parties and their home when he arrived on the scene.” *Id.* at 629.

This case is much like *Washington* and *Pak*. The deputies observed an injury on the left side of Buddy’s face near his left eye, and each formed an opinion or drew an inference that Buddy had been hit or struck. The first requirement of rule 701 is satisfied because the deputies’ testimony was rationally based on their perceptions.

Thus, the district court did not err by admitting the deputies’ testimony that Buddy appeared to have been hit or struck.

II. Sufficiency of the Evidence

Remer next argues that the evidence is insufficient to support his conviction of mistreatment of an animal. He does not challenge the sufficiency of the evidence of domestic assault.

It is a misdemeanor offense for a person to “overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.” Minn. Stat. § 343.21, subd. 1. The prosecutor argued to the jury that Remer “cruelly beat” Buddy based on the veterinarian’s testimony about the severity of Buddy’s injuries, D.S.’s

testimony that Remer said that he “got a little rough with” Buddy, the deputies’ testimony about their observations of Buddy’s injuries, and the evidence that no one other than D.S. was at Remer’s home when Buddy was injured.

The parties agree that Remer’s conviction is based on circumstantial evidence. If a conviction is based on circumstantial evidence, we apply a heightened standard of review with a two-step analysis. *State v. Petersen*, 910 N.W.2d 1, 6-7 (Minn. 2018); *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). At the first step, we “identify the ‘circumstances proved.’” *State v. Isaac*, 9 N.W.3d 812, 815 (Minn. 2024) (quoting *State v. McInnis*, 962 N.W.2d 874, 890 (Minn. 2021)). “In identifying the circumstances proved, we assume that the jury resolved any factual disputes in a manner that is consistent with the jury’s verdict.” *Moore*, 846 N.W.2d at 88. Accordingly, we “disregard evidence that is inconsistent with the jury’s verdict.” *State v. Harris*, 895 N.W.2d 529, 601 (Minn. 2017). At the second step of the analysis, “we examine independently the reasonableness of the inferences that might be drawn from the circumstances proved,” determine whether “the circumstances proved are consistent with guilt,” and determine whether the circumstances proved are “inconsistent with any rational hypothesis except that of guilt.” *Moore*, 846 N.W.2d at 88 (quotations omitted). We do not give deference to the jury’s verdict. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017).

At the first step of the circumstantial-evidence analysis, we begin by identifying the relevant circumstances proved, which are as follows. Buddy appeared to be fine the evening before Remer called 911. That night, Buddy was “whimpering,” and Remer was “yelling at” Buddy, and then Buddy was quiet. The next day, one of Buddy’s eyes was

injured, and he was not as active as usual. When asked what happened to Buddy, Remer said, “I guess I got a little rough with him.” D.S. and Remer were the only two persons present at Remer’s home during the period in which he was injured. D.S. did not hit Buddy. The next evening, Buddy’s face “appeared to have been struck” because “there was swelling” and one of his eyes “was bulging out,” and it looked as if Buddy “had been hit in the left side” because the inner membranes of an eye were “poking out” and “very swollen.” Buddy was diagnosed with two fractured bones on the left side of his face. Because the Blue Heeler breed has especially strong skull bones and can generally withstand a kick from a large animal, it would take a large amount of force to cause the fractures diagnosed.

At the second step of the circumstantial-evidence analysis, we initially must determine whether “the circumstances proved are consistent with guilt.” *Moore*, 846 N.W.2d at 88 (quotations omitted). Remer does not argue that the circumstances proved are inconsistent with guilt. The state argues that the circumstances proved are consistent with guilt. We agree with the state that the circumstances proved allow a reasonable inference that Remer caused Buddy’s injuries by hitting or striking him during the evening of January 24, 2022.

At the second step of the circumstantial-evidence analysis, we also must determine whether the circumstances proved are “inconsistent with any rational hypothesis except that of guilt.” *Moore*, 846 N.W.2d at 88 (quotations omitted). Remer identifies only one hypothesis that might be inconsistent with the jury’s finding of guilt: he asserts that Buddy might have been injured by “an animal with which [the dog] was being trained to herd.”

Remer bases this argument on the veterinarian’s testimony that Blue Heeler dogs are bred for herding large animals. But no evidence was introduced at trial that Buddy ever had been used for herding. To prevail at this step of the circumstantial-evidence analysis, an appellant “must . . . point to *evidence in the record* that is consistent with a rational theory other than guilt.” *State v. Segura*, 2 N.W.3d 142, 158 (Minn. 2024) (emphasis added) (quotation omitted). “A defendant may not rely on mere conjecture to argue that the circumstances proved, as a whole, are consistent with a reasonable hypothesis of [his] innocence.” *Id.* (quotation omitted). Because Remer’s only alternative hypothesis is not based on evidence introduced at trial, the hypothesis is not rational.

Thus, the evidence is sufficient to support Remer’s conviction of mistreatment of an animal.

Affirmed.