

*This opinion is nonprecedential except as provided by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
A25-0737**

State of Minnesota,
Respondent,

vs.

Charles William Whalen,
Appellant.

**Filed April 20, 2026
Reversed
Worke, Judge**

Yellow Medicine County District Court
File No. 87-CR-24-315

Keith Ellison, Attorney General, Lydia Villalva Lijó, Assistant Attorney General, St. Paul, Minnesota; and

Mark Gruenes, Yellow Medicine County Attorney, Granite Falls, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Worke, Judge; and Halbrooks, Judge.*

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

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant argues that the evidence is insufficient to sustain his threats-of-violence conviction. We agree and reverse.

FACTS

On August 19, 2024, respondent State of Minnesota charged appellant Charles William Whalen with threats of violence (reckless disregard), in violation of Minn. Stat. § 609.713, subd. 1 (2024). The matter proceeded to a jury trial. The following facts are taken from the evidence presented during that trial.

On August 16, 2024, the Granite Falls police chief responded to a call of a person having a “meltdown” in the street. The police chief observed Whalen acting in an “animated” manner. During their conversation, Whalen asserted that the police chief and other officers had contact with his niece, whom Whalen described as a “vulnerable adult.” The police chief asked Whalen if he needed help, to which Whalen responded he did not. The police chief left the scene.

Shortly after that interaction, Whalen made publicly available Facebook posts. In one post, Whalen stated: “Someone please help. [The police chief] must be made to pay for what he has done to this young Native Woman. Click Click Boom. At one time he would have faced a Firing Squad.” Someone replied: “Careful . . . that almost sounds like a threat.” To which Whalen replied: “Thank you. It’s not. I wouldn’t hurt a hair on anyone’s head. Especially a Police Officer, in uniform or Otherwise. I wouldn’t kill a Fly.

Fact. I'll text this as a message. I'll delete that because I was thinking of a trial and a Firing Squad rather than Hanging.”

Two days later, Whalen emailed the police chief, listing several accusations. The police chief found the email's tone accusatory, but not threatening.

That evening, the police chief viewed Whalen's Facebook posts. He found several of the posts to be accusatory but not threatening. However, the police chief found the above post to be threatening because he believed that Whalen was making a threat to—or asking others to help—shoot him.

While in custody, Whalen told an investigating officer that he did not mean the statement as a threat. Whalen also explained that he intended to delete the post but forgot due to a traumatic brain injury.

The jury found Whalen guilty as charged. The district court sentenced Whalen to 12 months in prison, stayed for five years. This appeal followed.

DECISION

Whalen argues that the evidence is insufficient to support his threats-of-violence conviction because the state failed to prove beyond a reasonable doubt that he intended to terrorize, or acted in reckless disregard of the risk of causing extreme terror, to the police chief.

When reviewing the sufficiency of the evidence, we must “determine whether, given the facts in the record and the legitimate inferences that can be drawn from those facts, a jury could reasonably conclude that the defendant was guilty of the offense charged.”

State v. Smith, 9 N.W.3d 543, 564-65 (Minn. 2024) (quotation omitted). In doing so, we view the evidence in the light most favorable to the verdict. *Id.* at 565.

Whalen’s conviction was based on circumstantial evidence. *See State v. Pederson*, 840 N.W.2d 433, 436 (Minn. App. 2013) (“Because intent involves a state of mind, it is generally established circumstantially.”). Appellate courts apply a two-step test when assessing the sufficiency of circumstantial evidence. *State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026). First, we must “winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict,” resulting in “a subset of facts that constitute the circumstances proved.” *Id.* (quotation omitted). Second, we consider whether the reasonable inferences “drawn from the circumstances proved, when viewed as a whole and not as discrete, isolated facts, are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* (quotations omitted).

A person is guilty of making a threat of violence when they directly or indirectly threaten “to commit any crime of violence with the purpose to terrorize another . . . or in a reckless disregard of the risk of causing such terror or inconvenience.” Minn. Stat. § 609.713, subd. 1. “A threat is a declaration of an intention to injure another or [their] property by some unlawful act.” *State v. Schweppe*, 237 N.W.2d 609, 613 (Minn. 1975). Whether the words or phrases are threatening depends upon the context in which they are used. *Id.* The underlying question is whether the statement “would have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *Id.* (quotation omitted).

We start our analysis of whether the evidence was sufficient to establish that Whalen intended his statement to terrorize the police chief, or was made in reckless disregard of that risk, by identifying the circumstances proved. Here, the circumstances proved include the following:

- the police chief responded to a call concerning Whalen’s behavior;
- Whalen accused the police chief of inappropriate behavior with his niece, who Whalen claimed was a vulnerable adult;
- the interaction lasted approximately ten minutes, with the police chief leaving after Whalen denied needing help;
- Whalen posted publicly on Facebook accusing the police chief of inappropriate behavior with Whalen’s niece: “Someone please help. [The police chief] must be made to pay for what he has done to this young Native Woman. Click Click Boom. At one time he would have faced a Firing Squad”;
- a commenter replied to Whalen: “Careful . . . that almost sounds like a threat”;
- Whalen did not remove the post;
- Whalen sent an email to the police chief raising the same allegation, that the police chief had inappropriate contact with Whalen’s niece, but the email did not contain any threatening language;
- after viewing Whalen’s Facebook post, the police chief was concerned that Whalen was threatening to shoot him or to have others assist him in doing so.

Next, we consider whether the reasonable inferences that may be drawn from these circumstances proved are consistent with guilt and “inconsistent with any rational hypothesis other than guilt.” *Smith*, 9 N.W.3d at 565.

Here, Whalen argues that he did not act with intent or “purpose to terrorize another.” *See* Minn. Stat. § 609.713, subd. 1. Whalen accused the police chief of inappropriate

behavior with his niece both in his Facebook post and a subsequent email. After being told the post sounded like a threat, Whalen thanked the commenter and stated he intended to send the same information in an email, without the perceived threatening language. While Whalen did not delete the post, he did not include the post's language in the email he sent directly to the police chief and other city officials. The omission of the threatening language in the follow-up email sent directly to the police chief supports Whalen's argument that there exists a reasonable inference other than that he intended to terrorize the police chief.

Our analysis next turns to whether Whalen acted with "reckless disregard of the risk of causing such terror." *See id.* Reckless disregard occurs when:

(1) through words or actions [a defendant] communicates an intention to injure another or their property; (2) the threat is to commit a statutorily defined crime of violence; (3) in context, those words or conduct create a reasonable apprehension that [they] will follow through with or act on the threat; and (4) they make[] the violent threat in conscious disregard of a substantial and unjustifiable risk that [their] words or conduct will cause extreme fear.

State v. Mrozinski, 971 N.W.2d 233, 240 (Minn. 2022) (quotation omitted).¹

First, as previously determined, there is a reasonable hypothesis that Whalen was not communicating an intent to injure the chief or have him injured. Therefore, the evidence is insufficient to support this first prong.

¹ We recognize that in *Mrozinski*, the supreme court analyzed the threats-of-violence statute in a First Amendment context. 971 N.W.2d at 239-40. But the court's definition of "with reckless disregard" under the statute is relevant to Whalen's appeal.

Second, threatening to shoot someone qualifies as a statutorily defined crime of violence, which satisfies the second factor. *See* Minn. Stat. § 609.1095, subd. 1(d) (2024).

Third, it is reasonably inferred that threatening to shoot someone, or calling upon others to shoot someone, would create reasonable apprehension that Whalen, or someone else, would follow through with the act. And the police chief testified to his concern and apprehension upon reading the post, which satisfies the third factor.

Fourth, we consider whether Whalen made the post “in conscious disregard” that his words would cause extreme fear. *Mrozinski*, 971 N.W.2d at 240. Here, Whalen made a Facebook post. Someone replied, warning him that the post sounded like a threat. Whalen responded that he did not realize it sounded like a threat and thanked the person for informing him. Whalen then corrected any potential misunderstanding and stated he is not a violent person and would never harm anyone, especially a police officer. Whalen’s reply, like his original post, was publicly available. From that reply, there was no known substantial risk that the message was threatening and that Whalen disregarded that risk. As such, the fourth factor is also not met.

Therefore, while the circumstances proved may be consistent with a guilty verdict, they are also consistent with a rational hypothesis of not guilty because Whalen did not act in conscious disregard that his words would cause extreme fear. For this reason, Whalen’s conviction must be reversed.²

Reversed.

² Because we reverse on this issue, we need not consider Whalen’s speedy-trial-violation claim in his self-represented supplemental brief.