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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0774**

State of Minnesota,
Respondent,

vs.

Tomeka Latonia Gills,
Appellant.

**Filed May 4, 2026
Affirmed
Ede, Judge**

Olmsted County District Court
File No. 55-CR-24-6191

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

Michael Spindler-Krage, Rochester City Attorney, Sheena L. Thompson, Assistant City Attorney II, Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sean Michael McGuire, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

EDE, Judge

This is an appeal from a final judgment of conviction for making a call for emergency police service, knowing that no police emergency existed. Appellant argues

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to article VI, section 10 of the Minnesota Constitution.

that the evidence is insufficient to sustain her conviction because (1) respondent did not introduce evidence that appellant requested emergency police service and (2) the circumstantial evidence does not establish that appellant knew no police emergency existed. We affirm.

FACTS

Respondent State of Minnesota charged appellant Tomeka Latonia Gills with making a call for emergency police service, knowing that no police emergency existed, in violation of Minnesota Statutes section 609.78, subdivision 1(4) (2022). The matter proceeded to a jury trial, during which the state called a Rochester Police Department officer and introduced two audio recordings of 911 calls. Gills testified in her own defense. The following factual summary stems from the trial record and is presented in the light most favorable to the verdict and conviction.¹

At 1:41 a.m. on March 1, 2024, the testifying officer was dispatched and responded to a disturbance at an apartment complex. Residents of the apartment complex had called the police to report that “one of [their] neighbors had been continuously banging on the

¹ See *State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026) (instructing that, when a conviction rests on circumstantial evidence, “[appellate courts] apply a two-step test to assess the sufficiency of the evidence,” and that, at the first step, appellate courts “winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict, which results in a subset of facts that constitute the circumstances proved” (quotations omitted)); see also *State v. Stone*, 995 N.W.2d 617, 622 (Minn. 2023) (explaining that, “[o]nce [a] statute is interpreted, [appellate courts] conduct a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did” (quotation omitted)).

walls that were adjoining . . . their apartment” and that the neighbor causing the disturbance had thrown “a can of beans . . . at the [callers’] front wall.”

To “get her side of the story,” the officer knocked on the front door of the neighbor who was suspected of causing the disturbance, whom the officer identified as Gills. While the officer was outside her front door, Gills called a “non-emergency line” and then 911 after the non-emergency dispatcher would not allow her to “talk to the supervisor of the officer [who] was knocking at [her] door.” Gills called 911 at 2:15 a.m., spoke with the dispatcher, and the dispatcher attempted to transfer her to the officer.

During this call, Gills complained about her neighbors and repeatedly asked the dispatcher to tell law enforcement to “stand down” and get away from her front door:

COMPUTER VOICE: Starting date Friday, March 1, 2024, 02 hours, 15 minutes, 27 seconds.

DISPATCHER: 911.

GILLS: Here we go again. . . . Can you tell the officers to get away from my door? I’m in the process of moving right now, and tell them to get away from my door right now.

DISPATCHER: Okay. Can I get your name?

GILLS: (Indiscernible.) Tell them to get away from my door right now. Call them and tell them to stand down, get way [sic] from my door. I’m in the process of moving. Call them right now because they are about to kick in my door.

DISPATCHER: I am not going to tell them to get away from your door. You’re going to have to go meet with them.

GILLS: I’m not -- I’m not -- I’m not -- I’m not -- I ain’t got no warrants. I ain’t got nothing. I’m in the process of moving. Tell them right now, because they are about to kick in my door. Tell

them they ain't got no warrant or nothing. Tell them to get away from my door right now.

DISPATCHER: Tomeka, you need to go talk with the officers yourself.

GILLS: No, I don't want to talk to 'em. I'm in the process of moving. I got all my stuff packed up. Tell them to get away from my door right now. Please tell them to get away from my door. I'm moving in the morning. Right now. Tell them I'm moving in the morning right now.

DISPATCHER: Tomeka, you can tell them yourself.

GILLS: You can tell them I'm in the process of moving right now. Get away from my door. I'm not bothering nobody.

OPERATOR: I'm going to transfer you to my officer on scene. One moment.

GILLS: No, you transfer -- no, I mean, you talk to him.

(Phone ringing.)

GILLS: He's calling the officer for no reason. (Indiscernible) a-- neighbor. My (indiscernible) neighbor keep calling ya'll. Tell them to just -- I'm moving in the morning right now. I'm moving in the morning. Tell them to get away from my door right now.

DISPATCHER: (Indiscernible.) So just let you know that --

GILLS: Tell them to stand down. Tell them to stand down. Tell them stand down. They keep on knocking on my door.

COMPUTER VOICE: Ending Friday, March 1st, 2024, 02 hours, 17 minutes, 34 seconds.

The officer could hear Gills inside her apartment while she was speaking with the dispatcher, but he did not see or hear a police emergency happening as he was standing outside her front door.

At 2:23 a.m., Gills again called 911 and questioned law enforcement's actions in response to her neighbors' complaints:

COMPUTER VOICE: Friday March 1, 2024, 02 hours, 23 minutes, 54 seconds.

DISPATCHER: 911.

GILLS: Yeah, can you connect me to (indiscernible) down here at Rochester? First of all, make sure you be telling these neighbors my name, none of that. Why they keep coming every time the neighbors call, when the neighbors been harassing me for a whole year? Why? Why? Why? Why? Because I'm (indiscernible) black and (indiscernible) or whatever. Hey, listen. (Indiscernible) your local officers.

DISPATCHER: Hold on one moment. I'm transferring you -- (cross talking -- indiscernible).

GILLS: That's the problem. You all keep calling me. You all keep -- he didn't know my name, when (indiscernible) name.

(Phone ringing.)

OFFICER: Officer

GILLS: Hello.

OFFICER: Can you (indiscernible).

GILLS: My (indiscernible). Why ya'll keep coming when I been calling you all for a whole year. Ya'll keep coming, and (indiscernible) keep letting them know my name, my medical situation. I got (indiscernible). Stop coming to my door when they bothering me. And you know that. You racist a--motherf---ers, you all know they been bothering me. You all know that.

(Conclusion of recording.)

The officer received the second call while he remained outside Gills's front door, and he did not see or hear anything that he believed was an emergency happening at that time.²

The jury found Gills guilty of making a call for emergency police service, knowing that no police emergency existed. The district court stayed the imposition of sentence and placed Gills on probation for one year, subject to certain terms and conditions.

This appeal follows.

DECISION

Gills argues that the evidence is insufficient to sustain her conviction because (1) the state did not introduce evidence that she requested emergency police service and (2) the circumstantial evidence does not establish that she knew no police emergency existed. The state counters that it adduced sufficient evidence to prove that Gills made a call for emergency police service and that she knew no police emergency existed. We agree with the state.

Below, we address each of Gills's arguments in turn.

I. There is sufficient direct evidence to establish that Gills made a call for emergency police service.

Gills maintains that the state failed to prove an essential element of making a call for emergency police service, knowing that no police emergency existed, based on her

² Gills testified that she called 911 because she "was scared" when the officer "kept knocking on [her] door," explaining that she thought he "was going to arrest [her] as far as taking sides . . . without hearing [her] side all the way through," which is "why [she] called to speak to his supervisor to get [the officer] to leave [her] alone, to get away from [her] door, because he didn't have [a] warrant to be at [her] door." And Gills stated that, at some point after her second 911 call, the officer left.

claim that the state did not establish that she requested emergency police service. This argument is unavailing.

Under Minnesota Statutes section 609.78, subdivision 1(4), an individual is guilty of a misdemeanor if they “make[] a call for emergency police . . . service, knowing that no police . . . emergency exists.” “Due process requires that the State bear the burden of proving beyond a reasonable doubt every element of a charged offense in a criminal trial.” *State v. Hill*, 23 N.W.3d 824, 835 (Minn. 2025) (quotation omitted). “A claim of insufficient evidence that turns on the meaning of the statute under which the defendant was convicted presents an issue of statutory interpretation that we review de novo.” *Stone*, 995 N.W.2d at 621–22. “The goal of statutory interpretation is to ‘ascertain and effectuate the intention of the legislature.’” *State v. Zielinski*, ___ N.W.3d ___, ___, No. A24-1837, slip op. at 13 (Minn. Mar. 25, 2026) (quoting Minn. Stat. § 645.16 (2022)) (other citation omitted). Appellate courts “begin [their] analysis with the relevant statutory text because the plain language of the statute is [their] best guide to the Legislature’s intent.” *Id.* (quotation omitted). Along with examining the text of a statute to determine its plain meaning, appellate courts also “look to the . . . textual context of the statute” and “read the statute as a whole.” *State v. Letourneau*, 23 N.W.3d 386, 391 (Minn. 2025) (quotation and citation omitted). “If there is only one reasonable way to read the text, the statute is unambiguous, and [appellate courts] enforce the statute’s plain meaning.” *Zielinski*, slip op. at 13 (quotation and citation omitted). “When a statute does not define a term or phrase, [appellate courts] may look to dictionary definitions to determine the plain meaning.” *State v. Steeprock*, 28 N.W.3d 417, 439 (Minn. 2025).

As noted above, “[o]nce the statute is interpreted, [appellate courts] conduct a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *Stone*, 995 N.W.2d at 622 (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). And appellate courts “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the factfinder to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which [they were] convicted.” *Id.* at 247 (quotation omitted).³

In *State v. Brandes*, we considered the definition of “emergency” for purposes of Minnesota Statutes section 609.78 in an appeal from a conviction of gross misdemeanor interference with an emergency telephone call under Minnesota Statutes section 609.78, subdivision 2 (2008). 781 N.W.2d 603, 605, 606 (Minn. App. 2010). We observed that

³ “The standard of review stated above applies when a conviction is adequately supported by direct evidence.” *Id.* When analyzing a sufficiency-of-the-evidence claim, “[t]he applicable standard of review depends on whether the conviction—or . . . the specific element at issue—is supported by direct evidence or circumstantial evidence.” *State v. Nyonteh*, 24 N.W.3d 271, 283 (Minn. 2025). “Direct evidence is evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *Loveless*, 987 N.W.2d at 247 (quotation omitted). “Circumstantial evidence, on the other hand, is evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted). “If a conviction, or an element of the offense, is based solely on circumstantial evidence, [appellate courts] review the sufficiency of the evidence under a heightened standard of review.” *Id.* Here, we conclude that the element at issue—whether Gills made a call for emergency police service—is adequately supported by direct evidence, i.e., the two audio recordings of the 911 calls that Gills made, which prove the challenged element without inference or presumption. *See id.*

“[a]n emergency call is defined as: ‘(1) a 911 call; (2) any call for emergency medical or ambulance service; or (3) any call for assistance from a police or fire department or for other assistance needed in an emergency to avoid serious harm to person or property,’ and in all cases an emergency must exist.” *Id.* at 606 (quoting Minn. Stat. § 609.78, subd. 3 (2008)) (other citation omitted); *see also* Minn. Stat. § 609.78, subd. 3(a) (2022) (providing the same definition of “emergency call”).

Gills concedes that, because subdivision 3(a) of Minnesota Statutes section 609.78 defines “emergency call” to “automatically include 911 calls, . . . by definition, Gills[’s] calls were ‘emergency calls.’” But Gills nonetheless argues that “the fact that [her] calls were ‘emergency calls’ does not satisfy the element in this statute because ‘emergency call’ is a term of art applicable to a different statutory provision: Minn. Stat. § 609.78, subd. 1(6) [(2022)].” Gills’s assertion—that the definition of “emergency call” set forth in subdivision 3(a) of Minnesota Statutes section 609.78 is limited to subdivision 1(6)—is incorrect because it is inconsistent with the plain language of the relevant statutory text. *See Zielinski*, slip op. at 13. Subdivision 3(a) unambiguously states that the definition of “emergency call” recited above applies “for purposes of this section,” “[e]xcept as provided in paragraph (b).” Minn. Stat. § 609.78, subd. 3(a). It is subdivision 3(b)(2) that sets forth a separate definition of “emergency call” “[a]s used in subdivisions 1, clause (6); 2, clause (2); and 2a.” Minn. Stat. § 609.78, subd. 3(b)(2) (2022). That said, we are mindful that the statute of conviction here—subdivision 1(4) of Minnesota Statutes section 609.78—does not use the precise term “emergency call” in defining the offense. *See* Minn. Stat. § 609.78, subd. 1(4) (providing that an individual is guilty of a misdemeanor if they “make[] a call

for emergency police . . . service, knowing that no police . . . emergency exists”). Because it does not affect our ultimate decision to affirm, we assume without deciding that the definition of “emergency call” in subdivision 3(a) does not apply to the charge of making a call for emergency police service, knowing that no police emergency existed, in violation of Minnesota Statutes section 609.78, subdivision 1(4).

In *Brandes*, we reasoned that Minnesota Statutes section 609.78 “does not define ‘emergency’ for purposes of this section” and therefore “look[ed] to its common, ordinary meaning.” 781 N.W.2d at 606 (citing Minn. Stat. § 645.08 (2008) (“[W]ords and phrases are construed . . . according to their common and approved usage”)); *see also Steeprock*, 28 N.W.3d at 439. Looking to a dictionary definition, we explained that “[e]mergency” is defined as “[a] serious situation or occurrence that happens unexpectedly and demands immediate action,” or “[a] condition of urgent need for action or assistance.” *Brandes*, 781 N.W.2d at 606 (quoting *The American Heritage College Dictionary* 449 (3d ed. 2000)). The current dictionary definition remains the same. *See The American Heritage Dictionary of the English Language* 583 (5th ed. 2018). And as relevant here, “service” is defined as “[a]ssistance; help[.]” *Id.* at 1602. Based on our precedential decision in *Brandes* and the above dictionary definitions, we conclude that “a call for emergency police . . . service” under Minnesota Statutes section 609.78, subdivision 1(4), is a call expressing an urgent need for assistance from police. *See Brandes*, 781 N.W.2d at 606; *see also Steeprock*, 28 N.W.3d at 439; *American Heritage*, *supra*, at 583, 1602.⁴

⁴ While our conclusion does not rely on the definition of “emergency call” set forth in subdivision 3(a) of Minnesota Statutes section 609.78, we note that this definition of “a

With this definition in mind and viewing the direct evidence in the light most favorable to the conviction, we conclude that there is sufficient direct evidence to have permitted the jurors to determine that Gills made a call for emergency police service. *See Stone*, 995 N.W.2d at 622. We reach this conclusion while assuming, as we must, “that the jury believed the state’s witnesses and disbelieved any evidence to the contrary,” and we base it on our careful examination of the record “to determine whether the facts and the legitimate inferences drawn from them would permit the factfinder to reasonably conclude that . . . [Gills] was guilty beyond a reasonable doubt of the offense of which [she] was convicted.” *Loveless*, 987 N.W.2d at 246, 247 (quotations omitted).

The two audio recordings of the 911 calls that Gills made reflect that she expressed an urgent need for assistance from police. *See Brandes*, 781 N.W.2d at 606; *see also Steeprook*, 28 N.W.3d at 439; *American Heritage*, *supra*, at 583, 1602. In the first call, Gills repeatedly demanded that the dispatcher tell law enforcement “to get away from [her] door right now . . . because they are about to kick in [her] door.” And in the second call, Gills told the officer to “[s]top coming to [her] door when [her neighbors were] bothering [her].”

Based on the foregoing, we conclude that there is sufficient direct evidence to establish that Gills made a call for emergency police service, as required to sustain a conviction under Minnesota Statutes section 609.78, subdivision 1(4).

call for emergency police . . . service” for purposes of subdivision 1(4) aligns with “the . . . textual context of the statute” and our “read[ing] the statute as a whole.” *Letourneau*, 23 N.W.3d at 391 (quotation and citation omitted).

II. There is sufficient circumstantial evidence to establish that Gills knew that no police emergency existed.

Gills maintains that there is insufficient circumstantial evidence to prove that she knew no police emergency existed. We respectfully disagree.

As mentioned earlier, to prove that Gills was guilty of making a call for emergency police service, knowing that no police emergency existed, the state had to establish that Gills knew no police emergency existed. *See* Minn. Stat. § 609.78, subd. 1(4); *see also* Minn. Stat. § 609.02, subd. 9 (2022) (providing in relevant part that, “[w]hen criminal intent is an element of a crime in this chapter, such intent is indicated by . . . some form of the verb[] ‘know’” and that “[k]now” requires only that the actor believes that the specified fact exists”). “Knowledge . . . is usually proved by circumstantial evidence.” *State v. Coleman*, 944 N.W.2d 469, 483 (Minn. App. 2020) (citing *State v. Mattson*, 359 N.W.2d 616, 617 (Minn. 1984)) (other citation omitted), *aff’d*, 957 N.W.2d 72 (Minn. 2021); *see also State v. Mauer*, 741 N.W.2d 107, 115 (Minn. 2007) (“We have long held that the proof of knowledge may be made by circumstantial evidence.” (citing *State v. Oman*, 110 N.W.2d 514, 525 (Minn. 1961) (Gallagher, Frank T., J., concurring specially) (noting that, although knowledge must be proved to sustain the conviction at issue, “the jury [could] find the existence of such knowledge from any relevant circumstances pointing to the probability that the defendant obtained knowledge”) (other citation omitted))).

Because the state relied on circumstantial evidence to prove that Gills knew no police emergency existed, we must “apply a two-step test to assess the sufficiency of the evidence.” *Firkus*, 31 N.W.3d at 478. Under this two-step test, appellate courts must first

“winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict, which results in a subset of facts that constitute the circumstances proved.” *Id.* (quotations omitted). Second, appellate courts “consider whether the reasonable inferences that can be 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.* (quotation omitted). “During the second step, [appellate courts] do not defer to the factfinder but examine the reasonableness of the inferences” and, “[i]f the circumstances proved when viewed as a whole, support a reasonable inference that is inconsistent with guilt, the evidence is not sufficient to support the conviction and [appellate courts] must reverse.” *Id.* at 483 (quotations omitted). “But [appellate courts] will not reverse a conviction based on mere conjecture.” *Id.* (quotation omitted).

At the first step, we conclude that the circumstances proved are as follows:

- At 1:41 a.m. on March 1, 2024, the officer responded to a report by residents of Gills’s apartment complex that she had been continuously banging on their adjoining wall and had thrown a can of beans at their front wall;
- The officer knocked on Gills’s front door to get her side of the story;
- At 2:15 a.m., Gills called 911, spoke with the dispatcher, and the dispatcher attempted to transfer her to the officer;
- During this call, Gills complained about her neighbors and repeatedly asked the dispatcher to tell law enforcement to “stand down” and get away from her front door;
- The officer could hear Gills inside her apartment while she was speaking with the dispatcher, but he did not see or hear a police emergency happening as he was standing outside her front door;

- At 2:23 a.m., Gills again called 911 and questioned law enforcement's actions in response to her neighbors' complaints;
- The officer received the second call while he remained outside Gills's front door, and he did not see or hear anything that he believed was an emergency happening at that time.

At the second step, we conclude that “the reasonable inferences that can be drawn from [these] circumstances proved, when viewed as a whole and not as discrete, isolated facts, are consistent with the hypothesis that . . . [Gills] is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* at 478 (quotation omitted). In so concluding, we do not defer to the jury and instead base our decision on the reasonableness of the inferences and our consideration of whether the circumstances proved, “when viewed as a whole, support a reasonable inference that is inconsistent with guilt.” *Id.* at 483 (quotation omitted).

Gills appropriately acknowledges that “the evidence supports . . . [an inference] that [she] knew there was no emergency.” We agree. The context surrounding the disturbance call that resulted in the officer's response to Gills's apartment complex, the content of Gills's two 911 calls, and the officer's observations of no emergency during those calls are consistent with the hypothesis that Gills knew no police emergency existed. Although we have concluded above that there is sufficient direct evidence to establish that Gills made a call for emergency police service because she expressed an urgent need for assistance from police, “the fact that emergency service or assistance is requested does not mean that an emergency actually exists.” *State v. Hersi*, 763 N.W.2d 339, 343 (Minn. App. 2009) (citing Minn. Stat. § 609.78, subd. 1(4) (2006)).

Moreover, we are not convinced that Gills's stated concerns that law enforcement was "about to kick in [her] door" and that the officer did not have a warrant, as well as her questions about law enforcement's response to her neighbors "harassing [her] for a whole year," support a reasonable inference inconsistent with any rational hypothesis other than that Gills knew no police emergency existed. *Firkus*, 31 N.W.3d at 478. This is because we must view the circumstances proved "as a whole and not as discrete, isolated facts." *Id.* (quotation omitted). Taken as a whole with all the circumstances proved, Gills's complaints about her neighbors, her repeated requests for law enforcement to "stand down" and get away from her front door, and her questions about law enforcement's actions in response to her neighbors' complaints support only one reasonable inference: that Gills knew no police emergency existed.

We therefore conclude that there is sufficient circumstantial evidence to establish that Gills knew that no police emergency existed, as required to sustain a conviction under Minnesota Statutes section 609.78, subdivision 1(4).

Affirmed.