This opinion is nonprecedential except as provided by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
A25-0934

State of Minnesota,
Respondent,

vs.

Finest Andre Nickens,
Appellant.

Filed April 27, 2026
Affirmed
Connolly, Judge

Dakota County District Court
File No. 19HA-CR-23-739

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

Kathryn M. Keena, Dakota County Attorney, Cheri Townsend, Todd P. Zettler, Assistant County Attorneys, Hastings, Minnesota (for respondent)

Sarah Gad, Gad & Gad Law Offices LLP, Minneapolis, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Wheelock, Judge; and Segal, Judge.*

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

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the requirement that he register as a predatory offender based on a kidnapping charge that he was acquitted of by a jury, arguing that the district court erred by determining that the acquitted charges and convicted charge arose out of the same circumstances or, in the alternative, that the predatory-offender registration requirement based on acquitted conduct is unconstitutional. Additionally, appellant challenges the sufficiency of the evidence supporting his misdemeanor domestic assault conviction. We affirm.

FACTS

Appellant Finest Andre Nickens was charged with third-degree assault and misdemeanor domestic assault in violation of Minnesota Statutes sections 609.223 and 609.2242 (2022) after his girlfriend, A.O., alleged that he had repeatedly hit her and subsequently prevented her from leaving their shared home. The state later amended the complaint to add a kidnapping charge in violation of Minnesota Statutes section 609.25 (2022). A jury trial occurred. Nickens, A.O., and a physician's assistant (PA) who treated A.O. at urgent care testified.[1]

Nickens testified to the following events: he and A.O. were in a relationship and lived together, though Nickens had attempted to leave the relationship "several times." On

[1] Nickens did not order the entirety of the trial transcript, citing cost limitations. We rely on the record provided and note that the appellant bears the burden of providing an adequate record. *Mesenbourg v. Mesenbourg*, 538 N.W.2d 489, 494 (Minn. App. 1995).

January 16, 2023,[2] Nickens began packing to leave the home. When he told A.O. that he wanted to end the relationship and was leaving, A.O. told him that she was pregnant. Nickens thought that A.O.'s prescription anxiety medications "would harm the baby, so [he] flushed them" down the toilet. Nickens testified that at that time, he was not aware that withdrawal from some of the medications could cause seizures if abruptly stopped. In the middle of the night, Nickens woke up to "thumps" in the upstairs bathroom and found A.O. face down between the toilet and the bathtub, unresponsive, and shaking. He observed blood "where she must have bit her lip and drool coming down the side of her mouth." He believed it was a seizure because A.O.'s body was "locked tensed" and "stiff" and he had "never seen somebody's body freeze up like that." A.O. "took a while to come to" and "sat up and she was disoriented a little bit." Nickens asked A.O. if she wanted to go to the hospital, but A.O. refused. Nickens had A.O. "lay on the inside of the couch and [he] laid on the outside to get her from having another seizure and falling on the floor, so [he] blocked her inside the couch."

In the morning, A.O. "woke up and realized there wasn't no prescription drugs available, she—she went ballistic again. She's—she's ra[nt]ing and raving about them." Nickens was "ready to leave" and "had [his] stuff packed," but told A.O. that he would go to the store to get her some cigarettes. Nickens thought cigarettes would be "[b]etter than giving her the prescription drugs" and would help calm A.O. down. When Nickens went

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[2] A.O. testified that this incident began on January 17, 2023, and Nickens testified that it began on January 16, 2023. The 911 call transcript is from January 18, so it appears likely that the incident began on January 17 and that Nickens misspoke here. The parties do not dispute the date of the incident.

to the store, he took A.O.'s car keys because he didn't want her to get into an accident. Nickens denied physically assaulting A.O. that night.

A.O. testified to the following events: she and Nickens had been "bickering" before Nickens grabbed her from behind, hit her, and dragged her from the garage to the kitchen. A.O. ran upstairs from the kitchen to the bathroom and tried to shut and lock the door, but Nickens broke the door and proceeded to repeatedly hit her with a belt. Nickens took her car keys, broke her cell phone, and threatened to kill her if she called the police. Then at 1:00 or 2:00 in the morning Nickens "wanted to lay head-to-head" with A.O. on the couch, "so he knew [she] didn't move" and she "couldn't get up to go pee or anything." In the morning, A.O. "made a run for it" and "found a phone and called 911." A.O. testified that the next morning she went to the hospital and then went to the police station to give a statement. A.O. went to urgent care eight days after the incident.

At the time of the incident A.O. was prescribed two medications for anxiety. She had taken anxiety medications since the age of 13 and had "missed like a day," but never more than one day. A.O. testified that Nickens had flushed her medications down the toilet "because he knew that [she] could go into serious withdrawals and that [a person] can die from benzo[diazepine] withdrawals." A.O. testified that she did not experience withdrawals, did not have a seizure on the day of the incident, and had never before had a seizure. The state introduced photos of A.O.'s injuries, car keys, a belt, and Nickens and A.O.'s home. One of these was a photo of a door that A.O. testified Nickens had tried to break down during the incident.

On cross-examination of A.O., Nickens introduced a photo of a damaged door in the house that was taken in 2022. A.O. testified that the photos were of two different doors in the home. Also on cross-examination, A.O. testified that the argument between her and Nickens did not start because she thought she was pregnant.

Nickens' attorney cross-examined A.O. about her testimony that she went to the hospital. A.O. testified that she was seen in the emergency room the same day that she called the police and at either the emergency room or urgent care the following morning. A.O. testified that she "really didn't think" she needed to mention having gone to the emergency room when she met with law enforcement the next day.

The PA testified that, according to his notes, A.O. did not mention a previous emergency room visit and that "based on the chart" he believed that A.O. was presenting for the first time for her injury. The PA testified that he treated A.O. eight days after the incident and he observed "some bruising to the left forehead above the orbit" and diagnosed A.O. with a concussion based on A.O.'s reported symptoms. The PA stated that he did not recall, nor did his notes reflect, any discussion of A.O.'s medication.

The jury found Nickens not guilty of the third-degree assault and kidnapping charges but found Nickens guilty of misdemeanor domestic assault. At the sentencing hearing, the district court stated that Nickens would be required to register as a predatory offender under Minnesota Statutes section 243.166 (2024) because he had been charged with an enumerated predatory offense (kidnapping) and there was "a conviction resulting" from the case. The district court did not make any specific findings about whether the assault and kidnapping charges arose out of the same set of circumstances.

During the sentencing hearing, Nickens' attorney did not object to the district court's statement that Nickens was required to register as predatory offender.[3] This appeal follows.

DECISION

Minnesota Statutes section 243.166, subdivision 1b(a), requires that a person register as a predatory offender if "charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following [enumerated offenses], and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances." Kidnapping under Minnesota Statutes section 609.25 is one of the enumerated offenses. Minn. Stat. § 243.166, subd. 1b(a)(1)(ii).

Nickens raises several arguments. First, Nickens argues that the requirement he register as a predatory offender after his acquittal for a registerable offense contravenes legislative intent. Second, he argues that the kidnapping charge and the domestic assault charge did not arise out of the same set of circumstances. Third, he argues that the kidnapping allegation was not supported by probable cause. Fourth, he argues that the district court's interpretation of section 243.166 was overly broad and caused an absurd

[3] Nickens' brief states that he did object, but the transcript contains no such record. Nickens' attorney appeared at the sentencing hearing via Zoom and appears to have been disconnected from the meeting several times, including possibly at the time when the district court judge stated that Nickens was required to register as a predatory offender and at the close of the hearing, when the district court judge asked if the attorney had anything further to add. The district court stated, "At some point during my recitation of the sentence, [Nickens's counsel] unfortunately lost connection. But the Court made its order for the record, and I think she heard most of it."

outcome. Fifth, he argues that it is unconstitutional to impose a predatory-offender registration requirement based on acquitted conduct. Lastly, he argues that the evidence was insufficient to sustain his misdemeanor domestic assault conviction. We address each argument in turn.

I. The requirement that Nickens register as a predatory offender does not contravene legislative intent.

In *Boutin v. LaFleur*, the supreme court discussed the legislative history of Minnesota Statutes section 243.166: "In 1993 the legislature amended the statute to require that a person register if convicted of an enumerated felony or another offense arising out of the same set of circumstances if initially charged with an enumerated offense." 591 N.W.2d 711, 715-16 (Minn. 1999) (footnote omitted) (citing 1993 Minn. Laws ch. 326, art. 10, § 1, at 2090). In *State v. Lopez*, the supreme court noted that the 1993 amendment to include defendants "merely *charged* with predatory offenses" sought "to ensure that true predatory offenders cannot plead out of the registration requirements." 778 N.W.2d 700, 704 (citing 1993 Minn. Laws ch. 326, art. 10, § 1, at 2090).

Nickens argues that the requirement that he register "flips legislative intent on its head, transforming a statute meant to close plea loopholes into a mechanism that penalizes acquittals" and cites Minnesota Statutes section 645.17(1) (2024), which provides that "the legislature does not intend a result that is absurd, impossible of execution, or unreasonable." While the result in this case—requiring registration when the defendant is acquitted of the predatory offense and convicted only of a misdemeanor—may seem unfair, it plainly falls within the scope of the statute. Indeed, the Eighth Circuit has previously opined on this exact hypothetical scenario:

> We acknowledge the statute may lead to unfair results in some cases. We note, for example, the statute would require registration of a person accused of both a predatory offense and a non-predatory offense arising out of the same set of circumstances who exercised his right to a trial and was acquitted of the predatory offense but convicted of the non-predatory one. Nonetheless, such a conviction is one the Minnesota legislature intended to trigger the statute's registration requirements.

Gunderson v. Hvass, 339 F.3d 639, 645 (8th Cir. 2003); *see Regner v. Nw. Airlines, Inc.*, 652 N.W.2d 557, 563 (Minn. App. 2002) ("While this court is not bound to follow Eighth Circuit precedent, it is persuasive authority"). The statute does not provide an exception for acquittals nor does it require that the registerable offense be dismissed via a plea agreement, even though the plea-bargaining issue appears to have been the driving force behind the 1993 amendment. Accordingly, section 243.166 leads to a result that is consistent with the plain language of the statute and while potentially unfair, it is not "absurd" as Nickens suggests.

II. The charges arose out of the same set of circumstances.

Whether two offenses arose out of the same set of circumstances under Minnesota Statutes section 243.166 is a question of statutory interpretation, which this court reviews de novo. *State v. Berry*, 959 N.W.2d 184, 187 (Minn. 2021) (Appellate courts "review the district court's findings of fact for clear error and its application of the law to those facts de novo").

The state argues that Nickens waived this argument by not raising it before the district court. It is unclear when Nickens would have raised the argument because he would not have known during the jury trial whether he was acquitted or found guilty of any of the charges—and therefore whether it was relevant to argue about the similarities of the charges. Nickens also did not raise this argument at the sentencing hearing.[4] But we have previously addressed the merits of a predatory-offender registration challenge when the defendant "did not dispute the registration requirement in the district court," "the registration requirement was not reduced to writing in a sentencing order," and the requirement was "orally affirmed by the district court at sentencing." *State v. Hayden*, No. A23-1047, 2024 WL 3320589, at *2 (Minn. App. July 8, 2024), *rev. denied* (Minn. Oct. 30, 2024).[5] And although the district court did not make a finding on whether the two charges arose out of the same set of circumstances, an explicit finding is not required. *See Boutin*, 591 N.W.2d at 721 (Anderson, J., dissenting) (suggesting that the district court should be required to make a finding on whether two charges arose out of the same set of circumstances, in contrast to the majority's holding that such a finding is not required). Accordingly, we consider the merits of Nickens' argument.

In *Lopez*, the supreme court reversed a registration requirement, finding that a charge arising from a drug sale did not arise from the "same set of circumstances" as a

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[4] Nickens argues that he objected to the registration requirement at sentencing, but there is no record of an objection in the sentencing hearing transcript. Because the record lacks complete transcripts, it does not reflect whether this objection was raised at another time (such as at the conclusion of trial). *See Mesenbourg*, 538 N.W.2d at 494.

[5] We cite to this nonprecedential opinion as persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

kidnapping that occurred 10 days later and was related to a debt from the drug sale. 778 N.W.2d at 706. The court articulated the following factors to determine whether two charges arose from the same set of circumstances: "Although the conviction offense need not be based on identical facts to the charged predatory offense, the facts underlying the two must be sufficiently linked in time, location, people, and events." *Id.* The *Lopez* factors "should be read narrowly; they cannot be applied so broadly as to include merely 'related' circumstances." *Berry*, 959 N.W.2d at 188.

First, considering the time factor, the alleged assault occurred on the evening of January 17. The facts underlying the kidnapping charge were that Nickens prevented A.O. from leaving the couch and the following morning took her car keys.[6] In *Berry*, the defendant's husband forced employees into a breakroom at gunpoint, the defendant entered one minute later and stated that it was "time to leave," and the defendant then drove her husband out of state. *Id.* at 185-86. The defendant was ultimately charged with kidnapping, false imprisonment, and aiding an offender to avoid arrest. *Id.* at 186. She ultimately pleaded guilty to aiding an offender to avoid arrest. *Id.* The supreme court held that the defendant's kidnapping and false imprisonment charges (both requiring registration) did not arise out of the same set of circumstances as the convicted charge because the *Lopez* factors were not met. *Id.* at 190-91. The supreme court reasoned that "[t]he offense of aiding an offender to avoid arrest is unique because it necessarily occurs *after* the aided offender has committed the underlying crime." *Id.* at 188. Here, unlike the

[6] Because the record does not contain the entirety of the trial transcript, these facts are based on A.O.'s testimony and Nickens' brief.

charges at issue in *Berry*, the offense of kidnapping did not necessarily occur after another crime. Additionally, A.O.'s testimony shows that there was some overlap in the conduct underlying the two offenses. A.O. testified about what occurred while she and Nickens were on the couch throughout the night: "I guess I was, like, making sounds and I woke him up, and he was livid. Yeah. So he was really mad, and then he—I think he hit me with a Timberland boot." A.O.'s testimony supports that the assault continued while the confinement occurred.

The second and third *Lopez* factors—the location and people involved—also support a finding that the charges arose out of the same set of circumstances. Both events happened at the same place—in the couple's shared home—and involved the same people— Nickens and A.O.

The last *Lopez* factor considers the underlying events. A.O. testified that Nickens confined her because he did not want her to tell someone about her injuries or seek help, which connects the two events. We note that reliance on A.O.'s testimony is complicated by the fact that, because the jury acquitted Nickens of the kidnapping charge, we are unable to discern which part(s) of A.O.'s or Nickens' testimony the jury found credible. Nickens testified that he had gone to sleep after having an argument with A.O., woke up to sounds of "thumps" in the upstairs bathroom, discovered she had a seizure, and then placed A.O. on the couch and later took her keys. However, because the jury convicted Nickens of domestic assault, the jury credited at least some of A.O.'s testimony that Nickens caused her injuries. Additionally, even under Nickens' version of events, the same location and people were involved throughout. In sum, consideration of the *Lopez* factors supports a finding that the charges arose out of the same set of circumstances.

III. The kidnapping charge was supported by probable cause.

An omnibus hearing was evidently held on probable cause for the kidnapping charge, but the transcripts of that hearing are not in the record. The record contains the amended complaint and accompanying statement of probable cause, as well as Nickens' motion to dismiss the kidnapping charge for lack of probable cause.

The first question is whether we should consider the complaint and omnibus hearing or the evidence from the trial when addressing whether there was probable cause for a charge. In *Siegel v. Evans*, we upheld a probable cause determination for a kidnapping charge considering only "the four corners of the complaint," where the appellant did not provide a factual record beyond the complaint and did not object to the initial probable cause determination.[7] No. A24-0594, 2024 WL 4750882, at *5 (Minn. App. Nov. 12, 2024), *rev. granted* (Minn. Mar. 18, 2025). In *State v. Udezi*, we considered *Siegel* as persuasive authority when the appellant *had* moved to dismiss for lack of probable cause. No. A24-0348, 2025 WL 670841, at *8 (Minn. App. Mar. 3, 2025), *rev. denied* (Minn. May 28, 2025). In doing so, we considered only the complaint and evidence from the

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[7] Appellant Siegel argued "that a judgment of acquittal equates to a determination that the complaint lacked probable cause." *Siegel*, 2024 WL 4750882, at *4. We rejected Siegel's argument, noting that "when the defendant fails to file a motion to dismiss for lack of probable cause, we review the complaint—not the evidence presented at trial—to evaluate whether the charge was supported by probable cause" whereas we consider "the evidence presented at trial to decide the motion for a judgement of acquittal." *Id*. at *4-5.

omnibus hearing when reviewing probable cause. *Id.* Consistent with our persuasive decisions in *Siegel* and *Udezi*, the following probable cause analysis relies only on the amended complaint and statement of probable cause.

"[A] qualifying charge may trigger the registration requirement under Minn. Stat. § 243.166 only if it is supported by probable cause." *State v. Haukos*, 847 N.W.2d 270, 274 (Minn. App. 2014). "Probable cause exists where the facts would lead a person of ordinary care and prudence to entertain an honest and strong suspicion that the person under consideration is guilty of a crime." *Id.* "The evidence necessary to support a finding of probable cause is significantly less than that required to support a conviction." *State v. Harris*, 589 N.W.2d 782, 790 (Minn. 1999). "[P]robable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity." *Id.* at 790-91. "[I]t is the judiciary's determination of probable cause, not the prosecutor's bringing of a charge, that triggers the statutory basis for sex-offender registration." *Haukos*, 847 N.W.2d at 273.

The relevant part of the statement of probable cause attached to the amended complaint reads:

> On January 19, 2023, [A.O.] followed up with law enforcement to communicate additional information. . . . Defendant told [A.O.] that he wasn't done with her, but allowed her to smoke a cigarette outside by him. When doing so, Defendant told [A.O.], "B****, I'm right here. I can hear everything. If you call the police or you call anybody, I will kill you before they get here." [A.O.] stated that Defendant made her sleep "head-to-head" with him that night so that he would know if she tried to escape. The next morning, Defendant went to the gas station, but took [A.O.]'s house keys, car keys, and medications with him. Before leaving,

> Defendant told [A.O.], "B****, don't make any stupid mistakes, because blood makes me go harder. You don't know what kind of devil I am." [A.O.] stated that she fled and called 911 after he left.

At the time the state filed the amended complaint, the district court apparently found that the kidnapping charges were supported by probable cause.[8]

Minnesota Statutes section 609.25, subdivision 1 provides that a person is guilty of kidnapping if they "confine[] or remove[] from one place to another, any person without the person's consent" for any of the following purposes: holding for ransom or as a shield or hostage, facilitating the commission of a felony or flight thereafter, "to commit great bodily harm or to terrorize the victim or another," or to hold in involuntary servitude. Minn. Stat. § 609.25, subd. 1(1)-(4). The kidnapping charge added via amended complaint was enhanced under Minnesota Statutes section 609.25, subdivision 2(2), which provides that the sentence is aggravated if the victim is not released in a safe place or the victim suffers great bodily harm.[9]

Nickens argues that probable cause was not established because A.O. remained in her own home the entire time and left of her own volition. To support the kidnapping charges, the state alleged that Nickens threatened to kill A.O. if she tried to call the police or anyone else, made A.O. sleep "head-to-head" with him on the couch to prevent her from

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[8] As previously noted, we have no record of the omnibus hearing.

[9] The state's motion to amend the complaint stated that it sought to add a kidnapping (safe release) charge, but the amended complaint charged Nickens with kidnapping (unsafe release) under subdivision 2(2). Because the record does not include the transcript of the omnibus hearing, the record does not reflect if the state articulated the rationale for this change at the omnibus hearing.

escaping, and the next morning, took her house and car keys and medications to prevent her from leaving. These alleged facts provide support that would "lead a person of ordinary care and prudence to entertain an honest and strong suspicion" that Nickens confined A.O. in their home without her consent for the purpose of committing great bodily harm or terrorizing her. *See Haukos*, 847 N.W.2d at 274; Minn. Stat. § 609.25, subd. 1(3). Accordingly, we conclude that the kidnapping charge was supported by probable cause.

IV. The district court's interpretation of Minnesota Statutes section 243.166 is not overly broad or unreasonable.

Nickens argues that "[t]he statute was read too broadly, the kidnapping charge was a strategic escalation unsupported by law, and the jury's verdict foreclosed any reliance on that allegation." He also asserts that he was punished for exercising his right to trial, and that the district court's interpretation of the registration requirement creates an absurd outcome under Minnesota Statutes section 645.17(1). This argument is not distinct from Nickens' other arguments, as it appears to reiterate and synthesize his previous contentions and Nickens does not cite any additional supporting authority. For the same reasons that we reject his arguments above, these claims likewise fail.

V. Minnesota Statutes section 243.166 does not violate the Sixth or Fourteenth Amendments to the U.S. Constitution by imposing a registration requirement based on acquitted conduct.

Nickens argues that imposition of a predatory offender registration requirement after acquittal violates his right to a jury trial under the Sixth Amendment and due process under the Fourteenth Amendment. U.S. Const. amends. VI, XIV, §1; Minn. Const. art. I,

§§ 6, 7. Appellate courts review the constitutionality of a statute de novo. *Werlich v. Schnell*, 958 N.W.2d 354, 363 (Minn. 2021).

The state argues that Nickens has forfeited this argument because he did not raise it before the district court. It does not appear that Nickens raised any constitutional arguments before the district court. However, it is somewhat unclear when or how Nickens could or should have raised this argument before the district court. In *State v. Munger*, we addressed a constitutional right to interstate travel argument on appeal where the appellant initially raised the argument in a postconviction proceeding, but declined to address a procedural due process claim that was not raised before the district court. 858 N.W.2d 814, 824 (Minn. App. 2015), *rev. denied* (Minn. Mar. 25, 2015). Accordingly, a postconviction relief petition (or a declaratory judgment action) is the appropriate procedure for Nickens to bring his constitutional claims. However, we need not address whether Nickens forfeited this argument because his constitutional claims fail on their merits.

A. The predatory-offender registration statute is not punitive.

A threshold issue for Nickens' constitutional claims is whether the challenged statute is punitive. *Werlich*, 958 N.W.2d at 367. Sixth Amendment rights do not attach to civil, regulatory measures. *Id.* at 369. The standard of review for due process claims also depends on whether the statute is punitive. *See id.* at 370 (where a registration requirement was civil and regulatory, rather than punitive, a fundamental right was not implicated, and appellant was not entitled to strict scrutiny). Nickens argues that the predatory offender registration scheme is punitive.

In *Boutin*, the supreme court held that the predatory offender registration statute is regulatory, reasoning that "registration does not require an affirmative disability or restraint, it only requires that the person register with law enforcement and inform the state of any change of address." 591 N.W.2d at 717. In *Werlich*, the supreme court stated that *Boutin* "does not foreclose all constitutional challenges to the expanded statutory consequences of predatory offender registration as applied to a person charged with, but not convicted of, an enumerated offense." *Werlich*, 958 N.W.2d at 374. In 1999, when *Boutin* was decided, registration consisted of only three requirements: submission of a form including fingerprints and a photograph to the Bureau of Criminal Apprehension, submission of an annual address verification form, and notification of law enforcement officials five days prior to change in address. *Id.* at 361-62. The *Werlich* court went on to conclude that it is "not necessarily bound by *Boutin*" because the "[l]egislature has repeatedly amended section 243.166 and other statutes, expanding the registration requirements and imposing additional consequences of registration. Some of the additional consequences of registration are more substantial than the reputational stigma that *Boutin* discussed." *Id.* at 362 (citation omitted).

The supreme court's holding in *Werlich* may allow for an argument that the predatory offender registration statute could be punitive in certain contexts, though the court declined to find that it was punitive in the context of either Werlich's exclusion from the Challenge Incarceration Program or mandatory investigation of "threatened sexual abuse" for living with his child. *Id.* at 367-70. Nickens argues that the registration statute's expanded "duration, reporting requirements, and restrictions" have transformed it into "a far more onerous and stigmatizing regime." In *Werlich*, the supreme court's analysis focused on whether each challenged consequence of registration was punitive. *Id.* at 367-71. Because Nickens does not challenge any particular consequence of registration—just the overall requirement that he register—*Werlich* is inapplicable. *See id.*

To support his argument, Nickens also cites supreme court cases from other states that have found predatory-offender registration requirements to be punitive. *See Doe v. State*, 189 P.3d 999, 1018 (Alaska 2008) (Alaska Sex Offender Registration Act is punitive and unconstitutional as applied); *State v. Letalien*, 985 A.2d 4, 26 (Me. 2009) (retroactive application of lifetime registration requirements under Maine's sex offender registration statute is punitive and unconstitutional); *State v. Williams*, 952 N.E.2d 1108, 1113-14 (Ohio 2011) (additional burdens imposed by updated sex offender registration statute violate Ohio Constitution's prohibition on retroactive laws). But the Minnesota Supreme Court has never found that the current version of Minnesota's predatory offender statute is punitive and *Boutin* remains binding precedent. *See Taylor v. State*, 887 N.W.2d 821, 825-26 (Minn. 2016) (distinguishing between deportation and predatory-offender registration in the context of intelligent plea requirements, acknowledging that the requirements of predatory-offender registration "may be onerous," but holding that registration is a civil regulatory consequence). Because Nickens does not challenge any particular consequence of registration and because the supreme court has never held the present-day registration statute punitive, we conclude that Minnesota Statutes section 243.166 is not punitive and apply *Boutin*.

B. Nickens' Sixth Amendment right to a jury trial was not violated.

Nickens argues that his Sixth Amendment right to a jury trial was violated because "punishment cannot rest on facts the jury declined to find." Nickens cites *Blakely v. Washington*, 542 U.S. 296 (2004), and argues that requiring registration after a jury acquittal "erases the jury's determination." But *Blakely* only applies if the registration statute is punitive. The statute only requires that Nickens was charged with an enumerated crime and was convicted of another arising out of the same circumstances. *See* Minn. Stat. § 243.166, subd. 1b(a). The jury's role in that determination is only Nickens' conviction. Unlike the challenged sentence in *Blakely*, the predatory-offender registration requirement is not part of the "punishment" because registration is a civil, regulatory consequence, not a punitive one. *Boutin*, 591 N.W.2d at 717. Thus, the registration requirement does not violate Nickens' Sixth Amendment right to a jury trial.

C. Nickens' due process rights were not violated under *Boutin*.

The Due Process Clauses of both the United States and Minnesota Constitutions provide that the government cannot deprive a person of "life, liberty, or property, without due process of law." U.S. Const. amends. V, XIV, § 1; Minn. Const. art. I, § 7. Though Nickens does not clearly identify whether he challenges procedural or substantive due process, his argument verges into both realms, so we address both.

Nickens does not argue that the statute is unconstitutional on its face. Instead, Nickens appears to argue that the statute violates his constitutional right to substantive due process because it infringes on his presumption of innocence as applied to him. Both the Minnesota and United States Constitution due process clauses prohibit "certain arbitrary, wrongful government actions, regardless of the fairness of the procedures used to implement them." *Boutin*, 591 N.W.2d at 716. "A statute that affects a fundamental right is subject to strict scrutiny. . . . If a fundamental right is not affected, the plaintiff must show that the statute does not provide a reasonable means to a permissible objective." *Werlich*, 958 N.W.2d at 366 (quotation and citations omitted). "[E]ven if a fundamental right is not implicated, in order to pass constitutional muster the registration statute must still meet the rational basis standard of review." *Boutin*, 591 N.W.2d at 717. "The rational basis standard requires: (1) that the act serve to promote a public purpose, (2) that the act not be an unreasonable, arbitrary or capricious interference with a private interest, and (3) that the means chosen bear a rational relation to the public purpose sought to be served." *Id.* at 718 (quotations omitted).

In *Gunderson*, the Eighth Circuit held that Minnesota's predatory-offender registration statute was rationally related to a legitimate government purpose. 339 F.3d at 643. In doing so, the Eighth Circuit noted that the Minnesota legislature had a legitimate government interest involved by including those who take advantage of favorable plea agreements in the registration requirements. *Id.* at 643-44. In *Werlich*, the supreme court held that two particular "post-registration collateral consequences"—exclusion from the Challenge Incarceration Program and mandated investigation for threatened sexual abuse—satisfy rational basis review. 958 N.W.2d at 370. In *Boutin*, the supreme court rejected the argument that "the state does not have an interest in registering nonpredatory offenders because the registration of nonpredatory offenders will dilute the list of predatory offenders and minimize its law enforcement effectiveness," holding that "[k]eeping a list of such offenders is rationally related to the legitimate state interest of solving crimes." 591 N.W.2d at 718.

Although *Boutin* does not address acquittals, its rationale still applies here. We find the Eighth Circuit's consideration of the potential for acquittal by jury in *Gunderson* persuasive, and agree that "[w]hile perhaps unfair, under the precedents we must apply, we discern no constitutional impediment to the legislature's decision." 339 F.3d at 645. Accordingly, we conclude that section 243.166 does not violate Nickens' right to substantive due process under rational basis review.

Turning to procedural due process: "Procedural due process involves two questions. First, is there 'a liberty or property interest with which the state has interfered[?]' Second, were the procedures used constitutionally sufficient?" *Werlich*, 958 N.W.2d at 371-72 (citing *Carrillo v. Fabian*, 701 N.W.2d 763, 768 (Minn. 2005)).

"A liberty interest includes, but is not limited to, fundamental rights." *Id.* at 372. State law can create a liberty interest or "[a] person may also have a liberty interest under the 'stigma-plus' doctrine. Under this doctrine, a liberty interest is implicated when a loss of reputation is coupled with the loss of some other tangible interest." *Id.* (quotation and citation omitted). In *Werlich*, the supreme court found that "the district court's determination that Werlich had no protectable liberty interests sufficient to invoke a claim of procedural due process was erroneous as to his liberty interest in his right to parent." *Id.* at 373. In contrast, in *Boutin*, the supreme court applied the stigma-plus doctrine, recognizing that registration as a predatory offender carries stigma, but holding that the minimal requirements of the registration statute did not satisfy the stigma-plus doctrine. 591 N.W.2d at 718.

In *Bedeau v. Evans* we rejected an argument that the modern predatory-offender registration statute meets the requirements of the stigma-plus doctrine. 926 N.W.2d 425, 432 (Minn. App. 2019). Nickens does not specifically identify any tangible interests. Following our reasoning in *Bedeau*, we conclude that Nickens' procedural due process rights were not violated because Nickens has not demonstrated the loss of a tangible interest sufficient to satisfy the stigma-plus doctrine.

VI. The evidence was sufficient to sustain Nickens' misdemeanor domestic assault conviction.

The appellant bears the burden of providing an adequate record. *Mesenbourg*, 538 N.W.2d at 494. The record must be "sufficient to show the alleged errors and all matters necessary for consideration of the questions presented." *Truesdale v. Friedman*, 127 N.W.2d 277, 279 (Minn. 1964). Nickens has not provided the entire trial transcript nor the contested omnibus hearing transcript(s), which makes it difficult for us to review the sufficiency of the evidence. The state argues that Nickens has forfeited this argument by failing to provide an adequate record for review. Nickens contends he has provided the relevant parts of the record and argues that when the jury acquitted him of the felony assault charge, the factual foundation for misdemeanor assault "disappeared" because the convicted charge fell on the same element (bodily harm) offered for felony assault. He argues that either the direct or circumstantial evidence standards compel reversal.

When reviewing sufficiency of the evidence, appellate courts "painstakingly review the record to determine whether that evidence, viewed in the light most favorable to the verdict, was sufficient to permit the jurors to reach the verdict that they did." *State v. Hassan*, 977 N.W.2d 633, 639-40 (Minn. 2022). Appellate courts "construe conflicting evidence in the light most favorable to the verdict and assume that the jury believed the State's witnesses and disbelieved the defense witnesses." *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013). "[T]he Due Process Clause requires the State to prove every element of a charged offense beyond a reasonable doubt in order to secure a conviction." *State v. Paulson*, 22 N.W.3d 144, 150 (Minn. 2025).

Direct evidence is "[e]vidence 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). Circumstantial evidence is "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist." *Id.* "But if the state introduced direct evidence on each element of an offense, the supreme court does not apply the circumstantial-evidence standard of review." *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013).

A.O. testified that Nickens beat her with his fists and his belt for over five minutes and that Nickens said that he would not stop "until he's tired" and that "blood makes [him] go harder." The jury saw photos of A.O.'s facial and body bruising, ripped wig, and chipped tooth, photos of the couple's home and a belt recovered from the home, heard 911-call audio, and saw body-worn camera footage In closing arguments, the prosecutor told the jury that domestic assault, infliction of bodily harm is based on the "same elements," as third-degree assault just "switch[ing] out 'substantial bodily harm' for 'family or household member.'"

Nickens argues that the jury's verdicts are inconsistent because the jury could not have found Nickens not guilty of intentional infliction of bodily harm for the third-degree assault charge but guilty for the domestic assault charge. Nickens focuses on the state's statement in closing arguments about the charges having "the same elements." But the elements, as reflected in the final jury instructions, are not exactly the same. The elements for Assault in the Third Degree are: (1) The defendant intentionally inflicted bodily harm upon A.O. and (2) The harm inflicted constituted substantial bodily harm. The elements for Domestic Assault–Infliction of Bodily Harm are: (1) The defendant intentionally inflicted or attempted to inflict bodily harm upon A.O. and (2) A.O. was the defendant's family or household member.

Even assuming without deciding that the consistency of the verdicts are relevant to our sufficiency-of-the-evidence standard of review, the verdicts are not inconsistent. The jury conceivably could have found that the harm inflicted did not constitute "substantial bodily harm," defined as "bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member," while still finding that bodily harm occurred under the domestic assault statute. Minn. Stat. § 609.02, subd. 7a (2022). The state's closing argument was clear that a domestic assault conviction does not require "substantial bodily harm" and instead requires that the victim was a family or household member.

A.O.'s testimony is direct evidence. *See Harris*, 895 N.W.2d at 599. Some of the other evidence, such as the photos of A.O.'s injuries and the couple's home, are circumstantial evidence. *See id.* Based on the record before us, A.O.'s testimony was the primary evidence that supported the elements of the domestic assault charge. A.O. testified that Nickens assaulted her and that she and Nickens lived together, making her a household or family member. *See* Minn. Stat. § 609.2242, subd. 1. A.O. testified that Nickens chased her, beat her, and threatened to kill her, demonstrating Nickens' intent. Accordingly, each element of the misdemeanor domestic assault conviction was supported by direct evidence, and we apply the direct-evidence standard. *Porte*, 832 N.W.2d at 309. Assuming that the jury believed the state's witnesses and disbelieved the defense witnesses, and viewing the evidence in the light most favorable to the verdict, we conclude that the evidence—A.O.'s testimony— was sufficient on each element to permit the jurors to reach a guilty verdict on the domestic assault charge because it provided evidence to support each element of the crime. *See Silvernail*, 831 N.W.2d at 599.

We further note that, even if the circumstantial evidence standard applied here, the result would be the same. Resolving all questions of fact in favor of the jury's verdict, no other reasonable inferences could be drawn because the verdict reflects that the jury accepted A.O.'s version of events relevant to the domestic assault charge. *See State v. Firkus*, 468 N.W.3d 478 (Minn. 2026). And though the jury acquitted Nickens on some charges, the jury "is free to accept part and reject part of a witness's testimony." *Harris*, 895 N.W.2d at 600. Moreover, the verdicts are not inconsistent because the charges have different elements. Accordingly, the evidence is sufficient to support Nickens' domestic assault conviction.

Affirmed.