

*This opinion is nonprecedential except as provided by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
A25-1777**

State of Minnesota,
Respondent,

vs.

Troy James Bonkowske,
Appellant.

**Filed August 24, 2026
Affirmed
Connolly, Judge**

St. Louis County District Court
File No. 69VI-CR-24-946

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

Kimberly J. Maki, St. Louis County Attorney, Aaron P. Welch, Assistant County Attorney,
Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Evan Ottaviani, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and
Rasmusson, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges his conviction following a court trial for fifth-degree assault-fear, arguing that the evidence was insufficient to prove that he intended to cause the victim to fear immediate bodily harm, the state's mischaracterization of the charge at trial

deprived him of a fair trial, and the district court erred by determining that he knowingly, intelligently, and voluntarily waived his right to counsel. In his pro se supplemental brief, appellant raises additional arguments challenging his conviction and the district court's handling of the proceedings. We affirm.

FACTS

Appellant owns property on West Bay Road in St. Louis County, Minnesota. S.T., a neighbor, must use West Bay Road to access her recreational cabin property. On the evening of June 24, 2024, S.T. and D.H. decided to go on a walk. They encountered appellant on West Bay Road. He was sitting in a lawn chair, partly on the road across from his property and partially on another neighbor's property. His truck was parked on the opposite side of the road, partly on the roadway, requiring S.T. and D.H. to pass between appellant and his truck.

Appellant testified that he was sitting outside to watch his "small dog" play with other neighborhood dogs and that he held a pebble from the gravel road in his hand to throw in case he needed to break up a fight between the dogs. As S.T. and D.H. approached appellant, S.T. said "hi" or "hello." S.T. testified that appellant became "irritated and agitated," waving his hands in the air, saying that S.T. and D.H. were disturbing and harassing him by walking by his property. S.T. began taking photographs with her phone to use as evidence. S.T. testified that appellant called her a profane name, said he "would get [her], and gave [her] the finger."

S.T. testified that appellant picked up gravel from the road and threw it at her, that it struck her below the waist, and that this made her feel disappointed, upset, and afraid.

After being hit, she stated, “I am calling 911.” Both S.T. and appellant testified that the 911 operator could hear appellant in the background telling S.T. to get away from him. At the 911 operator’s instruction, S.T. and D.H. returned to their cabin and locked their door. By the time law enforcement arrived, appellant had picked up his chair and driven away in his truck.

Appellant’s testimony differed. He testified that, once he saw S.T. and D.H. walking down the road, he assumed they would be “smiling and gloating and mocking [him] as they walked by” because of prior conflicts between him and S.T. He believed they were taking photos of him and his license plate to try to get him arrested for sitting on a private road and for having expired license plate tabs. Appellant acknowledged, “words were said . . . [he] called her names and gave her the finger and told her to get away from [him].” Appellant testified, “at no time did I pick up a pebble to throw at her or the one pebble that I did have in my hand trying to get her away from me, it didn’t hit her, and it’s an absolute lie if she says I threw – picked up and threw three pebbles at her.” On cross-examination, appellant confirmed that he was “absolutely” upset because S.T. was taking unwanted photographs, and that he threw the pebble because he was “frustrated” that S.T. was “coming at” him as he kept “telling her to get away from [him].” He answered the question, “[a]nd because you were upset, you threw that pebble at her?” with, “[y]es, cause she was coming at me.”

Respondent State of Minnesota charged appellant with one count of misdemeanor Fifth Degree Assault–Fear of Bodily Harm or Death, pursuant to Minn. Stat. § 609.224, subd. 1(1) (2024) (assault-fear). The complaint alleged that appellant intended to cause

S.T. fear of bodily harm by throwing small rocks at her as she walked by him on the road. At a hearing, a public defender was appointed to represent appellant, and appellant stated that he did not understand why he was being charged with assault.

At a later hearing, appellant discharged his public defender and orally waived counsel in three pending matters, including this case. When the district court asked appellant about his right to have an attorney and the potential disadvantages of representing himself, appellant indicated he understood and did not think he would be disadvantaged by not having an attorney. He also stated that he wanted to obtain a transcript of a recent harassment restraining order (HRO) hearing. The district court stated that the HRO proceeding was a separate civil matter with a different burden of proof, asked whether the transcript issue affected appellant's decision to discharge counsel, and appellant confirmed it did not. The court found that appellant had made a knowing and intelligent waiver of his right to an attorney and concluded there was no prejudice. At three subsequent pretrial hearings, appellant affirmed his desire to proceed without counsel. The district court confirmed that appellant understood an attorney could assist in preparing the case, presenting evidence, and cross-examining witnesses, and requested that he file a written petition to proceed pro se before trial.

Appellant signed and submitted a Petition to Proceed as Pro Se Counsel for this case and another pending file, on which he indicated that he understood he was charged with "the crime(s) of Harassment alleged to have occurred on or about Aug. 10th, 2024, in St. Louis, County, Minnesota." On the same day, the district court held a court trial for the assault-fear charge, after confirming that appellant waived his right to a jury, waived his

right to counsel, and declined advisory counsel. Regarding the waiver of counsel, the district court noted it did not have “any concerns about [appellant’s] ability to understand what’s taking place” and confirmed with appellant that, if he changed his mind about counsel, he would make it known.

In his opening statement, the prosecutor referred to the charge as “fifth degree assault – attempting to inflict bodily harm” (assault-harm) and repeated this reference during closing argument. In his opening statement, appellant did not discuss the elements of the crime or indicate confusion as to the nature of the charge against him. During cross-examination, appellant attempted to impeach S.T. by using an HRO petition signed by her husband. The district court stated: “Well, that’s not a way to cross examine or impeach a witness with somebody else’s prior testimony.” Appellant later asked if he could call D.H. and stated he did not subpoena D.H. because he thought D.H. would be the state’s witness. Because D.H. had not been subpoenaed, the district court proceeded without D.H. testifying. Following the trial, the district court took the matter under advisement.

The district court issued a written order finding appellant guilty of fifth-degree assault-fear, as charged in the complaint, finding that “[t]hrowing rocks was an intentional act. The motivation behind the act was anger. . . . [S.T.] testified that she was afraid for her safety.” The district court concluded that “[t]he State ha[d] proven beyond a reasonable doubt that [appellant] committed an act with intent to cause [S.T.] to fear immediate bodily harm or death.” When the district court asked appellant if he would like an attorney for sentencing, appellant replied that he would. The court appointed counsel and released him with conditions. Appellant was sentenced to 90 days in jail, stayed for one year with

supervised probation, following the recommendations of the presentence investigation report. This appeal follows.

DECISION

Appellant raises several arguments in the primary brief and a pro se supplemental brief. In his primary brief, appellant argues that (1) the evidence was insufficient to support a finding that he intended to cause S.T. fear of immediate bodily harm, (2) the State's characterization of the charge as assault-harm during trial deprived him of a fair opportunity to defend against the charged offense of assault-fear, and (3) the district court clearly erred by finding that he knowingly, intelligently, and voluntarily waived his right to counsel. In his pro se supplemental brief, appellant raises additional challenges to his conviction and the district court's handling of the proceedings. We address each argument in turn.

1. Sufficiency of the Evidence

When considering a challenge to the sufficiency of the evidence at a court trial, our review “is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient to allow the [fact-finder] to reach the verdict” that it did. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). Viewing the evidence in the light most favorable to the verdict, this court must assume that the fact-finder disbelieved any contrary evidence. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). “The verdict will not be overturned if the fact-finder, upon application of the presumption of innocence and the State's burden of proving an

offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

The standard of review depends on whether the evidence is direct or circumstantial. While direct evidence is “evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption,” circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotations omitted). Circumstantial evidence “always requires an inferential step to prove a fact that is not required with direct evidence.” *Id.*

When reviewing the sufficiency of circumstantial evidence to prove an element of the offense, this court uses a two-step analysis. The first step is to identify the circumstances proved. *State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026). In identifying the circumstances proved, this court views the evidence in the light most favorable to the verdict and defers to the fact-finder’s acceptance of evidence consistent with the verdict and rejection of conflicting evidence. *State v. Silvernail*, 831 N.W.2d 594, 598-99 (Minn. 2013). The circumstances proved therefore include only facts consistent with the verdict. *Id.* The second step is to determine 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.” *Firkus*, 31 N.W.3d at 478 (quotations omitted). No deference is given to the fact-finder’s choice between reasonable inferences. *State v. Fox*, 868 N.W.2d 206, 223 (Minn. 2015).

Appellant argues that the evidence presented at his trial was insufficient to prove that he intended to cause S.T. fear of bodily harm when he threw a pebble at her on the evening of June 24. Under Minnesota Statutes section 609.224, subdivision 1(1), fifth-degree assault-fear occurs when a person “commits an act with intent to cause fear in another of immediate bodily harm or death.” This formulation makes assault-fear a specific-intent crime: the state must prove that the defendant not only voluntarily committed the act but also acted with the additional intent to cause fear of immediate bodily harm or death in another. *State v. Fleck*, 810 N.W.2d 303, 309 (Minn. 2012). The focus is on the defendant’s intent, not on the actual effect on the victim. *State v. Ott*, 189 N.W.2d 377, 379 (Minn. 1971). The fact-finder determines whether the requisite intent exists and may take into account the ordinary effect of the act. *Id.* The specific intended harm is fear itself, which is distinct from an intent to cause physical injury or death. *State v. Spann*, 986 N.W.2d 205, 215 (Minn. 2023). Therefore, the evidence must be sufficient to prove that appellant threw the pebble with intent to cause fear of immediate bodily harm.

An inferential step is required to determine appellant’s objectives in throwing the pebble at the victim. Intent can be inferred from the totality of the circumstances proved, including the defendant’s conduct, the nature of the assault, and the events leading up to and immediately following the crime. *State v. Barshaw*, 879 N.W.2d 356, 364 (Minn. 2016). The state argues that, because appellant testified to his general state of mind at trial, his intent was not proved solely by circumstantial evidence. But appellant testified to his frustration and agitation at S.T. and D.H. during their interaction, not to his intent when throwing the pebble. Because no witness testified from personal knowledge that appellant

intended to cause S.T. fear of bodily harm, the two-step circumstantial-evidence test applies to the intent element.

The first step in the two-part analysis is to identify the “circumstances proved” by “winnow[ing] down the evidence presented at trial by resolving all questions of fact in favor of the . . . verdict.” *Firkus*, 31 N.W.3d at 478. Here, S.T. had a legal right to be on West Bay Road. As S.T. and D.H. passed by and said “hi” or “hello” to appellant, he became “angry by what he perceived to be [S.T.’s] harassing conduct.” The record shows that S.T. was using the camera feature on her phone to take photographs of appellant. Appellant called S.T. a profane name, testified he became frustrated, and continually told S.T. and D.H. to “get away.” He threw the pebble in his hand at S.T. The district court found that S.T. observed appellant pick up more pebbles, so she turned and called 911. She was hit on the back of her legs, was scared, and returned to her cabin and locked the door. Although appellant’s intent, not the impact on S.T., is the focal point, the ordinary effect of a man yelling, using profanity, and throwing a pebble can be considered to determine intent. *See Ott*, 189 N.W.2d at 379. Taken together, these are the circumstances proved for the purposes of the first step of the circumstantial-evidence analysis.

The second step of the circumstantial-evidence test requires examination of all inferences that may be drawn from the circumstances proved as a whole. *Harris*, 895 N.W.2d at 602. Appellant contends that, although the circumstances proved support a rational inference that he threw the pebble with intent to cause S.T. fear of immediate bodily harm, they also support a reasonable inference that he threw the pebble only to get S.T. to “leave him alone.” But on this record, appellant’s asserted purpose of making S.T.

leave does not provide a rational hypothesis inconsistent with guilt. The question is not whether he wanted S.T. to leave him alone; the question is whether the circumstances proved permit a rational inference that he sought to accomplish that purpose without intending to cause fear of bodily harm. Here, the circumstances proved show that appellant was agitated, yelled profanities, repeatedly told S.T. to get away, threw a pebble at her while she was near him, hit her, and then caused her to call 911 and return to her cabin to lock the door. Under those circumstances, the ordinary effect of throwing the pebble was to make S.T. fear what would happen if she did not leave. Thus, appellant's stated desire to get S.T. away is not inconsistent with an intent to cause fear; it supports the inference that fear was the means by which he intended to make her leave.

Therefore, the circumstances proved are inconsistent with the hypothesis that appellant threw the pebble to simply make S.T. leave him alone without intending to cause fear of bodily harm. Sufficient evidence supports the district court's finding that appellant acted with the requisite intent under Minn. Stat. § 609.224, subd. 1(1).

2. The State's Mischaracterization of the Charged Offense

When a criminal charge is misstated, mischaracterized, or contains an erroneous statutory citation in the charging instrument, this court applies a harmless-error test to determine whether the defect invalidates a conviction. *State v. Gruber*, 864 N.W.2d 628, 635 (Minn. App. 2015). A conviction following a fair trial will not be reversed unless the defendant shows actual proof that they were in fact misled as to the charge brought against them, to their prejudice. *Id.*

Here, the complaint charged appellant with fifth-degree assault-fear, but in opening and closing statements, the state referred to the charge as fifth-degree assault-harm and identified the elements of that charge. Assault-fear is a specific-intent crime because it requires proof that the defendant intended to cause fear, whereas assault-harm is a general-intent crime. *Fleck*, 810 N.W.2d at 312. In its written order, the district court found that the state proved beyond a reasonable doubt that appellant committed an act with intent to cause S.T. to fear immediate bodily harm. On appeal, the parties agree the misnaming of the charge at trial is reviewed under the harmless-error test. Therefore, appellant must show that he was actually misled to his prejudice by the mischaracterization. *See State v. Clark*, 134 N.W.2d 857, 867 (Minn. 1965).

Appellant argues that he was unable to prepare an adequate defense because the state misnamed the charge. He states that his argument is supported by two facts. First, appellant wrote “harassment” as the charge on his petition to proceed pro se. Second, appellant argues that his defense, including his opening and closing statements and his decision to testify, responded to the elements that the state identified for assault-harm. However, reversal is warranted only if appellant shows actual proof that he was misled about the charge, to his prejudice. *See id.*

The complaint filed on September 4 identified the charge as “Assault-5th Degree-Fear of Bodily Harm or Death.” Additionally, it described appellant’s alleged conduct underlying the charge: “yelling expletives at [S.T.], calling her derogatory names, and throwing rocks at her.” It stated that S.T. was afraid of appellant and of what he might do to her, and that the 911 operator noted S.T. “sounded scared and ‘shaken up.’” Although

appellant wrote “harassment” on his petition to proceed pro se, the complaint, not the pro se petition, informs a defendant of the charge brought against them. Further, the pro se petition was completed for both the assault-fear file (69VI-CR-24-946) and another then-pending harassment-related file (69VI-CR-24-882). Because the complaint named and described the assault-fear charge, it was sufficient to inform appellant of the assault-fear charge brought against him. The petition’s reference to harassment does not show that appellant was actually misled to his prejudice.

The charges of assault-fear and assault-harm are distinct theories with different intent requirements. *See Fleck*, 810 N.W.2d at 312. But the prejudice inquiry turns on whether appellant was actually misled in a way that affected his ability to defend against the charged offense. At trial, appellant decided to testify. On the stand, he provided his perspective of the June 24 incident, including that he threw the pebble in his hand toward S.T. On cross-examination, appellant confirmed he was “upset,” and “frustrated,” and that he “threw that rock at [S.T.] to get her away from [him].” His testimony therefore addressed the same factual question relevant to the charged offense: what he intended when he threw the pebble. His testimony that he threw the pebble because he was upset and wanted S.T. to get away did not prevent him from defending against assault-fear. Instead, it provided the factual basis for his defense that he did not intend to cause fear of bodily harm. He has failed to show how the charge named in the state’s opening statement impacted his decisions at trial and prejudiced him. The district court found that the state proved beyond a reasonable doubt that appellant committed assault-fear. The fact-finder applied the correct legal standard despite the state’s misstatement. Thus, although the state

referred to the charge as assault-harm, that error did not prejudice appellant's right to a fair trial.

Therefore, the complaint was sufficient to apprise appellant of the specific acts and the crime he was prosecuted for: assault-fear. Furthermore, although the state incorrectly referred to assault-harm during opening and closing statements, appellant has not shown actual proof that he was misled about the charge, to his prejudice. Accordingly, the error was harmless and does not warrant reversal.

3. Waiver of Counsel

Appellant alleges error in the district court's acceptance of his waiver of counsel. A defendant may waive the right to counsel, but the waiver must be knowing, intelligent, and voluntary. *State v. Worthy*, 583 N.W.2d 270, 276 (Minn. 1998). In determining whether a waiver is valid, courts consider the totality of the circumstances, including the defendant's background, conduct, possible sentencing, and understanding of the consequences of self-representation. *Id.*; see also *State v. Richards*, 456 N.W.2d 260, 265 (Minn. 1990) (holding that defendant who showed he fully understood the gravity of the charges against him and was aware of possible dangers made an informed decision). We review a district court's finding that a defendant validly waived the right to counsel under the clearly erroneous standard. *State v. Jones*, 772 N.W.2d 496, 504 (Minn. 2009); see also *State v. Rhoads*, 813 N.W.2d 880, 885 (Minn. 2012). Thus, the question is whether the district court clearly erred by finding that appellant knowingly, intelligently, and voluntarily waived counsel. See *Jones*, 772 N.W.2d at 504; *Worthy*, 583 N.W.2d at 276.

Appellant argues that the district court's waiver was inadequate because his question about using materials from a related HRO proceeding revealed confusion that the district court did not resolve, and that issue reappeared at trial. The state responds that the district court adequately advised appellant of his right to counsel and the disadvantages of self-representation, and that the court was not required to instruct him on impeachment methods.

The district court did not clearly err in finding that appellant knowingly, intelligently, and voluntarily waived his right to counsel. The record shows that at the September 30, 2024, hearing, the district court questioned appellant about his right to counsel and the drawbacks of self-representation. He indicated he understood those rights and wished to discharge the public defender's office. When appellant asked about using statements from a related civil hearing, the district court explained that the civil matter involved a different burden of proof, asked whether the issue affected his decision to discharge counsel, and asked whether he had any questions. Appellant answered "no" and then confirmed that he wished to discharge counsel in all three pending matters, including this case.

The record as a whole and the totality of the circumstances also support the district court's findings. The record shows appellant understood the nature of the proceedings; he participated in multiple pretrial hearings and confirmed his desire to proceed pro se. The district court repeatedly confirmed that appellant was waiving counsel, explained that an attorney could assist with preparing the case, presenting evidence, and examining witnesses, asked whether he wanted advisory counsel, and received his signed waiver. The

court stated appellant understood the proceedings and could still request counsel. Furthermore, appellant's conduct at trial—his ability to testify, cross-examine, and present argument—demonstrated his understanding of the process. Although appellant later had difficulty attempting to impeach S.T. with materials from an HRO proceeding and failed to subpoena D.H., those difficulties do not show that his waiver was invalid. The waiver inquiry required the district court to determine whether appellant understood the significance and consequences of self-representation; it did not require the court to instruct him on specific evidentiary or impeachment techniques. *See Worthy*, 583 N.W.2d at 276.

Accordingly, we conclude that the district court's finding that appellant knowingly, intelligently, and voluntarily waived counsel is supported by the record and was not clearly erroneous.

4. Arguments Raised in Appellant's Pro Se Supplemental Brief

Appellant appears to raise two arguments in his pro se supplemental brief: (1) his conviction and sentencing were “based on civil rights abuses conducted” by the district court, not sufficient evidence; and (2) the district court was biased “toward a female victim.” However, no legal authority or argument is presented for either assertion. “An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.” *State v. Mod. Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997) (quotation omitted). Appellant's citation of *State v. Chauvin*, No. 27-CR-20-12951, 2020 LEXIS 443 (Minn. Dist. Ct. Oct. 21, 2020) for the statement that “during the hearing was the fact Ms. T and her ex-husband could've exercised de-

escalation of tensions on their walk past me” is not relevant to this assertion. Pro se arguments lacking relevant legal authority will not be considered on appeal. *See State v. Bartylla*, 755 N.W.2d 8, 22-23 (Minn. 2008) (holding that appellate courts will not consider pro se arguments lacking in supportive arguments and/or legal authority).

We conclude that appellant forfeited the assertions stated in his pro se supplemental brief because they are unsupported by developed argument or relevant legal authority.

Affirmed.