*This opinion is nonprecedential except as provided by Minn.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**
**A22-0881**

State of Minnesota,
Respondent,

vs.

Maria Louise La Rose,
Appellant.

**Filed May 22, 2023**
**Affirmed in part, reversed in part, and remanded**
**Wheelock, Judge**

Scott County District Court
File No. 70-CR-20-7368

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

Ronald Hocevar, Scott County Attorney, Todd P. Zettler, Assistant County Attorney, Shakopee, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Bryan, Judge; and Hooten, 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## NONPRECEDENTIAL OPINION

**WHEELOCK**, Judge

In this direct appeal from judgments of conviction for felony simple robbery, aiding and abetting simple robbery, and obstruction of legal process, appellant argues that (1) the evidence was insufficient to prove beyond a reasonable doubt that appellant or her codefendant inflicted bodily harm or intended to cause fear of imminent bodily harm relating to the simple-robbery convictions, and (2) the district court abused its discretion in imposing a three-year probation term for the obstructing-legal-process conviction. We affirm the sufficiency of the evidence for the simple-robbery conviction, reverse the conviction for the included offense of aiding and abetting simple robbery, and reverse and remand the sentence for obstructing legal process.

## FACTS

Respondent State of Minnesota charged appellant Maria Louise La Rose with felony simple robbery (count one), gross-misdemeanor obstruction of legal process (count two), and aiding and abetting simple robbery (count three). La Rose waived a jury trial, and the case proceeded to a bench trial in October 2021. The state presented the following evidence at trial.

L.S. was working as a cashier at a gas station in Shakopee on the evening of May 30, 2020. At approximately 9:50 p.m., a woman—later identified as La Rose—entered the gas station and walked into the employee space behind the counter to where L.S. was standing next to a register.

L.S. testified that La Rose "right away just came in [L.S.'s] face," appearing angry and yelling about the police harassing her son. L.S. testified that she was fearful La Rose would "beat [her] up" due to La Rose's physical proximity, anger, and continued yelling. L.S. testified that a man—later identified as La Rose's codefendant, Cruze White—also came behind the counter while La Rose was yelling at her and asked L.S. to "get into the safe" and "pull the tape for the surveillance." L.S. told the man she could not get into the safe and did not know where the surveillance tape was. L.S. testified that she saw the man take cigarettes from behind the counter. The man took the cigarettes and left the store. The district court admitted into evidence the gas-station surveillance video that captured the robbery; the surveillance video showed La Rose taking cigarettes as well.

A customer called 911 while these events transpired. The customer reported that three people were robbing the gas station and taking cigarettes, and he gave a description of the three suspects.[1] The customer saw the suspects leave the store and stand in front of their vehicle.

A police officer who responded to the 911 call also testified at trial. He testified that when police officers arrived at the scene, they observed two people who matched the 911 caller's description of the suspects standing near a vehicle that matched the description of the suspects' vehicle. When police approached the suspects, one of them fled the scene on foot.

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[1] The third suspect was later identified as La Rose's daughter, M.L.M.

The officer testified that he directed the other suspect, La Rose, towards the vehicle. La Rose refused to comply. The officer gave several other commands to La Rose and informed her that she was going to be detained. La Rose began to yell at the officer and again refused to comply. The officer attempted to handcuff La Rose, but she physically resisted arrest.

Although the officer was eventually able to handcuff La Rose, she continued to resist as two officers attempted to put her in the back of their squad car. She "was verbally non-compliant" and yelled at the officers. One of the officers testified that La Rose pushed her foot against the frame of the squad car and used "every ounce of her strength" to avoid getting into the back seat. The district court admitted into evidence the officer's body-camera footage that captured the arrest of La Rose. The officer also testified that cigarettes, a cigarette display case, and a white hat matching the description of the hat one of the suspects wore were recovered from the suspects' vehicle.

Both White and La Rose testified for the defense. White testified that he stole cigarettes from the gas station but that La Rose had not told him to do so, and she was not involved in the robbery. La Rose testified that she intended to purchase groceries and gas at the gas station. She testified that L.S. immediately threatened to call the police when La Rose entered the store, which angered La Rose and caused her to "confront" L.S. La Rose testified that she was not aware that White was going to take any cigarettes and that she told him to put them back when she saw him take them.

In a January 20, 2022 order, the district court entered its findings of fact, conclusions of law, and order finding La Rose guilty of all three counts—felony simple robbery (count

one), gross-misdemeanor obstruction of legal process (count two), and aiding and abetting simple robbery (count three). The district court stayed imposition of La Rose's sentences for counts one and two and ordered three years' supervised probation for both counts to be served concurrently.

La Rose appeals.

## DECISION

### I. Sufficient evidence supports La Rose's conviction for felony simple robbery.

La Rose argues that the evidence was insufficient to convict her of simple robbery or aiding or abetting simple robbery because the state failed to prove beyond a reasonable doubt that that either she or her codefendant caused L.S. actual harm or intended to cause L.S. to fear immediate bodily harm or death. We are not persuaded.

When reviewing a sufficiency-of-the-evidence claim, we "carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the [fact-finder] to reasonably conclude that the defendant was guilty beyond a reasonable doubt." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). We apply the same standard of review to determine whether the evidence is sufficient to support a conviction in a bench trial as in a jury trial. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

We first identify the elements of simple robbery. Simple robbery is defined in Minn. Stat. § 609.24 (2018):

> Whoever, having knowledge of not being entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against

> any person to overcome the person's resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property is guilty of robbery . . . .

In *State v. Stanifer*, we concluded that the statutory phrase "uses or threatens the imminent use of force" incorporates the elements of fifth-degree assault because fifth-degree assault is a lesser-included offense of simple robbery. 382 N.W.2d 213, 220 (Minn. App. 1986).

Fifth-degree assault occurs when an actor "commits an act with intent to cause fear in another of immediate bodily harm or death."[2] Minn. Stat. § 609.224, subd. 1(1) (2018). The offense of assault with intent to cause fear is a specific-intent crime that "requires the State to prove the defendant committed an act with an additional special mental element." *State v. Fleck*, 810 N.W.2d 303, 309 (Minn. 2012).

Having identified the elements of the simple-robbery offense, we turn to La Rose's argument that the state did not prove specific intent beyond a reasonable doubt here. "Intent is generally proved by inferences drawn from a person's words or actions in light of all the surrounding circumstances." *Nelson v. State*, 880 N.W.2d 852, 860 (Minn. 2016) (quotation omitted); *see also State v. Fardan*, 773 N.W.2d 303, 321 (Minn. 2009) (noting that the jury draws an inference of intent "from the totality of circumstances" (quotations omitted)). And a fact-finder may infer that a defendant intended the natural and probable consequences of their actions. *See, e.g.*, *State v. Hough*, 585 N.W.2d 393, 396-97 (Minn.

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[2] Fifth-degree assault also occurs if an actor "intentionally inflicts or attempts to inflict bodily harm upon another." Minn. Stat. § 609.224, subd. 1(2) (2018). However, this subdivision is inapplicable here. *See* Minn. Stat. § 609.245, subd. 1 (2018) (a robbery that involves bodily harm is a first-degree aggravated robbery). The record reflects that La Rose did not inflict or attempt to inflict bodily harm on L.S., and the parties agree on this point as well.

1998) (affirming conviction based upon the conclusion that the defendant intended the natural and probable consequences of his actions).

Evidence of intent is thus typically circumstantial because intent is a state of mind. *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997). Circumstantial evidence is evidence that requires a fact-finder to "infer whether the facts in dispute existed or did not exist." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Circumstantial evidence differs from direct evidence in that it "always requires an inferential step to prove a fact." *Id.*

We review a conviction with "heightened scrutiny" when the conviction is based on circumstantial evidence.[3] *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). To evaluate the sufficiency of circumstantial evidence, we apply a two-step standard of review. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, we identify the circumstances proved at trial. *Id.* In doing so, we defer to the fact-finder's "acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State." *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010) (quotation omitted). In other words, we review conflicting evidence in the light most favorable to the state. *See id.* at 330; *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008).

[3] La Rose argues that the district court did not apply the heightened level of scrutiny that the circumstantial-evidence standard requires when it determined that La Rose intended to cause L.S. fear of immediate bodily harm. However, the district court is not required to apply this standard when determining whether the state has proved a defendant's guilt at trial. *State v. Olson*, 982 N.W.2d 491, 493, 496-97 (Minn. App. 2022).

Second, we "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Silvernail*, 831 N.W.2d at 599 (quotations omitted). At this step of the analysis, we "give no deference to the fact finder's choice between reasonable inferences." *Id.* (quotation omitted). We consider the circumstantial evidence "as a whole" when completing this step of the analysis. *Id.*; *Andersen*, 784 N.W.2d at 332 ("[W]e do not review each circumstance proved in isolation. Instead, we must consider whether the circumstances presented are consistent with guilt and inconsistent, *on the whole*, with any reasonable hypothesis of innocence." (quotation omitted)).

Turning to the facts of this case, we first identify the circumstances proved. The district court made several findings of fact that summarize the circumstances proved at trial, and we defer to the district court's acceptance of the proof of these circumstances at this stage of the analysis. *See Andersen*, 784 N.W.2d at 329. The circumstances proved here are:

- La Rose "stretched her arm out toward [L.S.], whose face showed a look of shock and fright";
- "[L.S.] testified that [La Rose] was angry and yelling at her";
- "Within the next five seconds, [La Rose] approached [L.S.] until they stood face-to-face—their torsos almost flush and their faces just centimeters apart";
- "[La Rose] moved even closer to [L.S.], leaning over her, and gesturing threateningly; [L.S.] backed up until she hit the counter located behind her, seeming to cower under [La Rose's] raised arm";

- After grabbing cigarettes from behind the counter, "[La Rose] once again cornered [L.S.] and raised her fist in another threatening gesture."

We next determine whether the circumstances proved were consistent with guilt and inconsistent with a reasonable hypothesis of innocence. La Rose concedes that the circumstances proved were consistent with guilt, but then argues that the circumstances proved were also consistent with a reasonable hypothesis of innocence—that La Rose "intended not to cause L.S. fear of bodily harm, but rather to create a non-assaultive diversion to allow her, her daughter, and White to steal cigarettes."

However, La Rose's argument ignores the district court's findings of fact that La Rose cornered L.S. behind the counter, stood just centimeters away from L.S., and twice raised her arm or fist above L.S.'s head. These actions contradict La Rose's theory that she intended only to distract L.S. and that she "did not do or say anything that demonstrated she intended to hurt L.S." After reviewing the circumstances proved, we conclude that the only reasonable inference to be drawn from La Rose's threatening gestures is that La Rose intended to cause L.S. fear of immediate bodily harm.

In sum, we conclude that the evidence was sufficient to show that La Rose intended to cause L.S. fear of immediate bodily harm, and therefore the district court was correct in determining that La Rose "used or threatened the imminent use of force against" L.S. during the commission of the robbery.[4]

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[4] The state makes an alternative argument that this court should overrule *Stanifer* and conclude that simple robbery does not incorporate the elements of the fifth-degree-assault statute. However, we are generally "extremely reluctant" to overrule our own precedent

Our conclusion that the evidence was sufficient to convict La Rose pertains specifically to La Rose's role as a principal actor in the commission of simple robbery. La Rose also argues that the evidence was insufficient to support her conviction for aiding and abetting simple robbery. La Rose's argument presents us with a separate, dispositive issue: the district court impermissibly entered a judgment of conviction for both simple robbery and aiding and abetting simple robbery. Although neither party raised this issue on appeal, we may address it sua sponte. *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (stating "it is the responsibility of appellate courts to decide cases according to law" despite oversights of counsel).

We note that a district court may not adjudicate both an offense and a lesser-included offense. Minn. Stat. § 609.04, subd. 1 (2018). Aiding and abetting is not a separate substantive offense, *State v. DeVerney*, 592 N.W.2d 837, 846 (Minn. 1999); rather, it is akin to a lesser-included offense. Thus, the district court erred by entering a judgment of conviction for both simple robbery and aiding and abetting simple robbery. We therefore reverse and remand to the district court to vacate the conviction for the included offense of aiding and abetting simple robbery. Based on our conclusion that the aiding-and-abetting conviction must be vacated, we need not address La Rose's sufficiency-of-the-evidence argument regarding that conviction. *See State v. Ashland*, 287 N.W.2d 649, 650 (Minn. 1979) (stating that appellate courts need not decide the sufficiency of the evidence to support unadjudicated counts).

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and will only do so for "a compelling reason." *State v. Martin*, 773 N.W.2d 89, 98 (Minn. 2009) (quotation omitted). We decline to overrule *Stanifer* in the instant case.

## II. The district court abused its discretion by sentencing La Rose to three years' probation for the gross-misdemeanor obstructing-legal-process offense.

The parties correctly agree that the district court abused its discretion by sentencing La Rose to three years' probation for the gross-misdemeanor obstructing-legal-process offense.

In certain circumstances, "a district court has discretion to stay imposition of a sentence and order probation with certain conditions." *State v. Franklin*, 604 N.W.2d 79, 82 (Minn. 2000). Appellate courts review a district court's decision to impose or stay a sentence for an abuse of discretion. *Id.* A district court abuses its discretion by, among other things, ordering a sentence that is "inconsistent with statutory requirements." *See id.* (quoting Minn. Stat. § 244.11, subd. 2(b) (1998)[5]).

A conviction for a gross-misdemeanor offense not specified in Minn. Stat. § 609.135, subd. 2(b) (2018), carries a maximum stay of sentence of two years. Minn. Stat. § 609.135, subd. 2(c) (2018). Gross-misdemeanor obstruction of legal process in violation of Minn. Stat. § 609.50, subd. 1(2) (2018), is not one of the offenses specified in Minn. Stat. § 609.135, subd. 2(b). Therefore, gross-misdemeanor obstruction of legal process carries a maximum stay of sentence of two years.

Here, the district court stayed imposition of the sentence and ordered La Rose to serve three years of probation. Because the maximum stay of sentence and probationary period for this gross-misdemeanor offense is two years, *see* Minn. Stat. § 609.135,

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[5] The quoted portion of Minn. Stat. § 244.11, subd. 2(b), remains unchanged in the most recent 2022 publication of the Minnesota Statutes.

subd. 2(c), the district court abused its discretion. We reverse and remand to the district court for resentencing on this conviction.

**Affirmed in part, reversed in part, and remanded.**