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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1941**

State of Minnesota,
Respondent,

vs.

Lorenzo Manuel Lopez,
Appellant.

**Filed September 19, 2011
Affirmed
Halbrooks, Judge**

Washington County District Court
File No. 82-CR-09-7636

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Cameron S. McLelland, Oakdale City Prosecutor, Oakdale, Minnesota (for respondent)

Thomas M. Beito, Beito & Lengeling, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Minge, Presiding Judge; Halbrooks, Judge; and Larkin, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges his convictions of fifth-degree domestic assault on the grounds that an evidentiary ruling by the district court constituted an abuse of discretion and that the evidence is insufficient to support his convictions. We affirm.

FACTS

On December 25, 2009, appellant Lorenzo M. Lopez was charged by citation with two counts of misdemeanor fifth-degree domestic assault pursuant to Minn. Stat. § 609.2242, subd. 1(1), (2) (2008). The charges arose from allegations by B.V., Lopez's ex-girlfriend and the mother of his two children, that Lopez assaulted her on Christmas Day, causing her injuries. At a subsequent jury trial, B.V. testified about the assault; Officer Charles Nelson, one of two officers who responded to B.V.'s 911 call, also testified. Lopez was found guilty of both counts of domestic assault by a jury. The district court sentenced Lopez to 90 days in jail with two years of probation. This appeal follows

DECISION

I.

In considering a claim of insufficient evidence, this court's review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). We must assume "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

A person is guilty of misdemeanor domestic assault if he “commits an act with intent to cause fear in another of immediate bodily harm or death” or “intentionally inflicts or attempts to inflict bodily harm” against a household or family member. Minn. Stat. § 609.2242, subd. 1. Lopez contends that the evidence is insufficient to prove that either statutory element was satisfied.

“‘With intent to’ . . . means that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2008). Intent is “an inference drawn by the jury from the totality of circumstances.” *State v. Fardan*, 773 N.W.2d 303, 321 (Minn. 2009) (quotation omitted). A jury is permitted to infer that a person intends the natural and probable consequences of their actions. *State v. Johnson*, 616 N.W.2d 720, 726 (Minn. 2000).

B.V. testified that on Christmas Day, she and Lopez got into an argument about where their children would spend the holiday. B.V. stated that during this argument Lopez pinned her down by the neck multiple times, struck her in the face and head twice, and put her in a headlock while she was holding their child, causing B.V. to drop the child. Lopez also followed B.V. as she tried to get away in order to continue assaulting her and broke her phone when she attempted to call for help. Both B.V. and Officer Nelson testified that B.V. sustained injuries to her head and arms as a result of the assault, including multiple bruises and a significant bump on her head.

While Lopez contends that the state “failed to establish [a]ppellant’s purpose for committing the alleged assault,” motive is not an essential element of the offense of domestic assault. And any absence of an express motive does not negate the strong evidence that Lopez acted with intent. We conclude that the evidence is sufficient to support the jury’s conclusion that the state proved beyond a reasonable doubt the element of intent on both counts.

Lopez also asserts that his convictions should be reversed because “inferences other than guilt[] cannot be excluded based on the evidence as a whole.” But an examination of whether the evidence may be consistent with inferences other than guilt is necessary only when a conviction is based solely on circumstantial evidence. *See Webb*, 440 N.W.2d at 430; *see also State v. Stein*, 776 N.W.2d 709, 722 (Minn. 2010) (“Circumstantial evidence is evidence from which the factfinder can infer whether facts in dispute existed or did not exist.” (quotation omitted)). Here, the state presented direct evidence against Lopez in the form of B.V.’s testimony, and the jury was not required to draw any inferences in order to find Lopez guilty of fifth-degree assault. We therefore conclude that Lopez’s argument is without merit.

Because the evidence is sufficient to support the jury’s verdict, we affirm Lopez’s convictions of fifth-degree domestic assault.

II.

Lopez asserts that the district court abused its discretion by sustaining the prosecutor’s objection during his counsel’s cross-examination of B.V. “Evidentiary rulings rest within the sound discretion of the [district] court and will not be reversed

absent a clear abuse of discretion. On appeal, the appellant has the burden of establishing that the [district] court abused its discretion and that appellant was thereby prejudiced.” *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003) (citation omitted).

Lopez’s counsel began B.V.’s cross-examination by asking questions about the history of her relationship with Lopez, beginning in 2007. After some questioning, the prosecutor objected on the ground of relevance, and Lopez’s counsel responded that he was “trying to understand the background information and give some context of what happened on December 25th.” The district court allowed counsel to proceed, but stated, “[T]hen you need to speed forward, we’re three years post.” Lopez’s counsel continued with a long series of detailed questions about the history of the parties’ relationship, specifically about the couple’s breakup, the birth of the children, and the fact that B.V. had lived in Lopez’s mother’s house for a period of time. The prosecutor renewed his objection, and the district court told Lopez’s counsel to “move forward.”

Lopez argues that the district court’s ruling in response to the prosecutor’s second objection was an abuse of discretion because his counsel was seeking background evidence that was relevant to prove that B.V. had been untruthful and falsely reported an assault. But when asked to describe the relevance of the testimony following the prosecutor’s first objection, Lopez’s attorney responded only that it was background information that provided context. Following the later, second objection, Lopez’s counsel provided no additional argument or offer of proof for the relevance of the evidence of the lengthy history of the relationship between Lopez and B.V. On this

record, the district court acted well within its discretion by sustaining the prosecutor's second objection.

Affirmed.