STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1150

State of Minnesota,
Respondent,

vs.

Quenton Tyrone Williams,
Appellant.

Filed May 15, 2017
Affirmed
Kirk, Judge

Anoka County District Court
File No. 02-CR-15-4556

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

Anthony C. Palumbo, Anoka County Attorney, Andrew T. Jackola, Assistant County Attorney, Anoka, Minnesota (for respondent)

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

Considered and decided by Worke, Presiding Judge; Johnson, Judge; and Kirk, Judge.

U N P U B L I S H E D O P I N I O N

KIRK, Judge

On appeal from his convictions of first-degree burglary, terroristic threats, and violation of a domestic abuse no contact order (DANCO), appellant argues that his

convictions must be reversed because (1) the state failed to present sufficient evidence to prove beyond a reasonable doubt that appellant committed first-degree burglary and terroristic threats and (2) he did not knowingly and intelligently waive his right to counsel following the state's second amended complaint, which added a second, more severe charge of first-degree burglary. Appellant also raises a number of arguments in his pro se supplemental brief. We affirm.

FACTS

Appellant Quenton Tyrone Williams dated L.W. for approximately three years until she ended their relationship in February 2015. Following their breakup, appellant and L.W. saw each other at a convenience store in May 2015. L.W. was pregnant at this time, and they discussed whether appellant was the father.

On the morning of July 19, 2015, L.W. and her boyfriend, C.D., were sleeping on the couch in the living room of L.W.'s apartment. When L.W. woke up, appellant was standing over her. He asked her, "So the baby ain't mine?" and touched her stomach. L.W. asked appellant what he was doing and how he got into the apartment. C.D. then woke up and told appellant to leave. As appellant left the apartment, he said, "I'm gonna kill you, me, and [C.D.]" L.W. then entered her bedroom, observed that the window was open, closed the window, and called 911. While she was on the phone with the 911 dispatcher, she saw appellant holding a handgun at the window. He told her, "You lucky, I'm gonna get you." It was later discovered that the window screen had been removed and was lying on the ground outside the building.

Columbia Heights Sergeant Matthew Markham and Columbia Heights Police Officer Steven Korts arrived at L.W.'s apartment to investigate. L.W. described to Officer Korts what had just happened. Officer Korts then spoke with C.D., who falsely identified himself as "Marcus Redd" and stated that he was L.W.'s neighbor. L.W. was aware that C.D. gave a false name to police. In an interview with Officer Korts on a later date, L.W. explained that C.D. did not disclose his true identity because there was a warrant out for his arrest. Shortly after arriving at the scene, police discovered and arrested appellant two blocks from L.W.'s apartment where he was hiding in a parked vehicle. Police did not find the handgun that L.W. had described.

On July 20, the state charged appellant with one count of first-degree burglary under Minn. Stat. § 609.582, subd. 1(a) (2014), and one count of terroristic threats under Minn. Stat. § 609.713, subd. 1 (2014). On July 21, the district court issued, and appellant received a copy of, a DANCO prohibiting appellant from contacting L.W. by any means. Following the district court's issuance of the DANCO, L.W. received an unsigned letter, which was post-marked August 25 and described the July 19 events. L.W. recognized the letter's handwriting as belonging to appellant. As a result, the state amended the complaint on October 2 to add a third count, alleging violation of a DANCO under Minn. Stat. § 629.75, subd. 2(b) (2014).

On November 20, appellant waived his right to counsel and petitioned the district court to proceed pro se. The district court accepted appellant's waiver and petition and, on December 7, appointed advisory counsel for appellant. On January 14, the state filed a

second amended complaint to add a fourth count, alleging first-degree burglary under Minn. Stat. § 609.582, subd. 1(c) (2014).

On January 19, prior to beginning appellant's two-day court trial, the district court and parties discussed the second amended complaint and the two first-degree burglary charges. The district court confirmed that appellant received a copy of the second amended complaint and explained the differences between the two burglary charges: "Well, the State has added count 4 which is a different way of charging burglary in the 1st degree. Instead of alleging a person not an accomplice is present in the building it alleges that you assaulted a person within the building. So that would be the main difference." The prosecutor explained that the new burglary charge is "a severity level 8 calling for a presumptive 48 months if he's convicted of count 4." Appellant then asked, "What was I facing on count 1 before this [newly added] count?" And the prosecutor stated that the initial burglary charge "is a level 5 or an 18 month stay of execution of sentence." Appellant then declined the district court's offers to ask additional questions regarding the second amended complaint and to confer with advisory counsel; instead, he stated that he wanted to proceed with the court trial.

At trial, the district court heard testimony from a number of witnesses, including L.W., Officer Korts, and Sergeant Markham. The district court also received the following into evidence: the DANCO order, the August 25 letter sent to L.W., the transcript and audio recording of L.W.'s 911 call, police body-camera footage, and police reports. Following trial, the district court issued its findings of fact, conclusions of law, verdicts, and order, finding appellant guilty of counts 1-3 and not guilty of count 4, which was the

first-degree burglary charge added in the second amended complaint. Appellant was later sentenced accordingly. This appeal follows.

D E C I S I O N

I. Sufficiency of the evidence

When reviewing the sufficiency of the evidence, "we view the evidence in the light most favorable to the verdict and assume that the factfinder disbelieved any testimony conflicting with that verdict." *State v. Holliday*, 745 N.W.2d 556, 562 (Minn. 2008) (quotation omitted). "The verdict will not be overturned if, giving due regard to the presumption of innocence and the prosecution's burden of proving guilt beyond a reasonable doubt, the [factfinder] could reasonably have found the defendant guilty of the charged offense." *Id*. (quotation omitted). We apply "the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence." *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). And we defer to the district court's credibility determinations. *See State v. Mems*, 708 N.W.2d 526, 531 (Minn. 2006) ("Assessing the credibility of a witness and the weight to be given a witness's testimony is exclusively the province of the [factfinder].").

To convict appellant of first-degree burglary under count 1, the state was required to prove that (1) appellant entered a dwelling without consent; (2) appellant committed, or intended to commit, a crime while in the building; and (3) the dwelling was occupied by another person, not an accomplice, while the burglary was taking place. Minn. Stat. § 609.582, subd. 1(a). To convict appellant of terroristic threats under count 2, the state was required to prove that appellant "threaten[ed], directly or indirectly, to commit any

crime of violence with purpose to terrorize another . . . or in a reckless disregard of the risk of causing such terror." Minn. Stat. § 609.713, subd. 1.

Appellant asserts that the state failed to present sufficient evidence to prove beyond a reasonable doubt that he committed first-degree burglary and terroristic threats. Specifically, appellant argues that these convictions were based solely on L.W.'s allegations, and, "[b]ecause [L.W.'s] bias and her conflicting statements are circumstances that seriously question her credibility, her uncorroborated testimony does not constitute sufficient evidence to sustain appellant's convictions." To support this argument, appellant emphasizes various inconsistencies between L.W.'s statements. Of these inconsistences, the most notable is L.W.'s initial failure to inform police of C.D.'s true identity and presence during the July 19 incident.

The district court's findings expressly address this issue and L.W.'s credibility as a witness:

> With the exception of her failure to advise police of [C.D.'s] true identity, [L.W.'s] testimony at trial was largely consistent with her statements to police about what occurred. . . . Although [L.W.] was untruthful concerning [C.D.'s] identity on July 19, 2015, the court finds that in all other respects she was credible at trial as to the events which occurred on July 19, 2015. Her testimony was consistent with her initial statements to police concerning [appellant's] actions.

Moreover, the district found that L.W.'s trial testimony was corroborated by the following: (1) L.W.'s prior statements to officers; (2) officers locating appellant two blocks from L.W.'s apartment, dressed as L.W. had described, shortly after L.W.'s report; (3) photographs depicting L.W.'s bedroom-window screen lying on the ground outside the

building at the time police arrived; and (4) L.W.'s statement to the 911 dispatcher, "I got a man out here with a gun." Finally, the district court found that appellant's trial witnesses "did not contradict or discredit [L.W.'s] testimony that [appellant] had no permission to enter her apartment during the early morning hours of July 19, 2015."

Therefore, as the district court found, the state established that appellant entered L.W.'s apartment without consent and threatened to kill her. These threats to L.W. involved a violent crime. *See* Minn. Stat. § 609.1095, subd. 1(d) (2014) (defining "[v]iolent crime" to include a violation of Minnesota's homicide statutes). The district court's findings are supported by L.W.'s trial testimony, which the court expressly deemed credible, and are corroborated by additional evidence admitted at trial. Accordingly, the evidence, taken as a whole and viewed in the light most favorable to the verdict, was sufficient to convict appellant of first-degree burglary under Minn. Stat. § 609.582, subd. 1(a), and terroristic threats under Minn. Stat. § 609.713, subd. 1.

II. Waiver of the right to counsel

"The Sixth and Fourteenth Amendments to the United States Constitution guarantee criminal defendants the right to an attorney." *State v. Worthy*, 583 N.W.2d 270, 275 (Minn. 1998). "The right to an attorney may be waived if the waiver is competent and intelligent." *Id*. To ensure that a defendant's waiver-of-counsel is knowing and intelligent, the district court "should comprehensively examine the defendant regarding the defendant's comprehension of the charges, the possible punishments, mitigating circumstances, and any other facts relevant to the defendant's understanding of the consequences of the

waiver." *State v. Rhoads*, 813 N.W.2d 880, 889 (Minn. 2012) (quoting *Worthy*, 583 N.W.2d at 276).

The Minnesota Supreme Court has concluded that this waiver analysis applies in both initial and renewed waivers of counsel: "Thus, when the State files an amended charge that doubles the maximum possible punishment, a district court should conduct a comprehensive examination of the defendant's understanding of the increase in the maximum possible punishment." *Id.* This court reviews a district court's factual finding that a defendant voluntarily and intelligently waived his right to counsel for clear error. *State v. Jones*, 772 N.W.2d 496, 504 (Minn. 2009). "When the facts are undisputed, however, the question of whether a waiver-of-counsel was knowing and intelligent is a constitutional one that is reviewed de novo." *Rhoads*, 813 N.W.2d at 885.

Appellant argues that, following the state's second amended complaint, which added a second charge of first-degree burglary, the district court failed to advise appellant of his right to counsel or obtain a renewed waiver-of-counsel. Appellant further argues that this failure constitutes structural error, requiring this court to reverse appellant's convictions and remand for a new trial.

The supreme court directly addressed this issue of renewed waiver-of-counsel in *Rhoads*. There, the state initially charged Rhoads with one count of second-degree burglary. *Id.* at 882. Following a pretrial hearing where Rhoads asserted his right to self-representation and signed a written waiver-of-counsel, the state amended the complaint to add a charge of first-degree burglary, which "roughly doubled the maximum possible punishment." *Id.* On the day of trial, Rhoads renewed his waiver-of-counsel, but "the

district court did not conduct an on-the-record inquiry of Rhoads's understanding of the maximum punishment that might be imposed if he were convicted of [the newly added charge of] first-degree burglary." *Id.* The district court found Rhoads guilty of both counts. *Id.* at 884.

The supreme court concluded that "[b]ecause the particular facts and circumstances of [Rhoads's] case do not support a conclusion that Rhoads understood the increased possible punishment, his renewed waiver-of-counsel was not knowing and intelligent." *Id.* at 890. As a result, the supreme court reversed the first-degree burglary conviction and remanded for further proceedings. *Id.* However, with regard to Rhoads's conviction of the original charge of second-degree burglary, the supreme court clarified as follows: "The district court's April 2010 guilty verdict on count I (second-degree burglary) is not unaffected by our decision. On remand, if the State elects not to retry Rhoads on count II (first-degree burglary), the district court shall adjudicate and sentence Rhoads based on the second-degree burglary guilty verdict." *Id.* at 882 n.2.

Here, like in *Rhoads*, appellant does not challenge his initial waiver-of-counsel. *See id.* at 882 n.1. But, unlike in *Rhoads*, appellant was acquitted of the first-degree burglary charge that was added after he initially waived his right to counsel. Contrary to appellant's structural-error assertion, *Rhoads* establishes that any potential failure by the district court to obtain a renewed waiver does not necessitate reversal of appellant's convictions because he provided an effective waiver for all charges that resulted in convictions. Accordingly, because appellant's convictions of first-degree burglary, terrorist threats, and DANCO violation are supported by sufficient evidence and were charged prior to his November 20

waiver, and because the state cannot retry him on the acquitted charge of first-degree burglary, we need not consider appellant's waiver-of-counsel argument.

III. Appellant's pro se arguments

Appellant's pro se supplemental brief raises 14 additional arguments, which we have carefully reviewed and conclude are without merit.[1] Of these 14 arguments, only those relating to probable cause and the Confrontation Clause warrant a brief discussion.

First, appellant argues at length that the state lacked probable cause to bring charges against him. However, because appellant was tried and convicted, his probable-cause challenge is not relevant on appeal. *See State v. Holmberg*, 527 N.W.2d 100, 103 (Minn. App. 1995) (stating that, after conviction, a probable-cause argument was irrelevant because "[t]he standard for the sufficiency of the evidence to support a conviction is much higher than probable cause"), *review denied* (Minn. Mar. 21, 1995).

Second, appellant argues that his Sixth Amendment confrontation right was violated based on his inability to cross-examine C.D. The Sixth Amendment to the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him." Whether the admission of evidence violates a criminal defendant's Confrontation Clause right is a question of constitutional

[1] These arguments and challenges are comprised of the following: (1) deprived access to courts and counsel; (2) double-jeopardy violation; (3) charges lacked probable cause; (4) speedy-trial violation; (5) Sixth Amendment violation based on his inability to cross-examine C.D.; (6) discovery violations; (7) state's use of perjury; (8) district court's bias; (9) improper issuance of a DANCO; (10) improper denial of his motion for acquittal; (11) state's improper closing argument; (12) sentencing violation in separate prosecution; (13) improper findings of fact; and (14) "extra legal issues."

law, which we review de novo. *See State v. Bobo*, 770 N.W.2d 129, 139 (Minn. 2009). C.D. did not testify at appellant's court trial, and the state did not introduce or rely on any out-of-court statement attributed to C.D. Accordingly, appellant's argument must fail as his confrontation right was not implicated with regard to C.D.

Finally, appellant raises an additional Confrontation Clause argument, asserting that the district court's bias led to improper restrictions on his ability to cross-examine the state's witnesses. Cross-examination under the Confrontation Clause allows a defendant the opportunity to show bias and thus expose facts that support inferences relating to witness reliability. *State v. Tran*, 712 N.W.2d 540, 551 (Minn. 2006). But the right to cross-examine witnesses may be limited "so long as the [factfinder] is presented with sufficient information from which to appropriately draw inferences as to the witness's reliability." *State v. Yang*, 774 N.W.2d 539, 553 (Minn. 2009). Here, the record establishes that the district court gave appellant ample opportunity to sufficiently cross-examine each witness, and any limitations on appellant's cross-examinations did not violate his constitutional right.

Affirmed.