STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1601

State of Minnesota,
Respondent,

vs.

Brian Donald Rinkel,
Appellant.

Filed September 11, 2017
Affirmed
Florey, Judge

Morrison County District Court
File No. 49-CR-15-1378

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

Brian Middendorf, Morrison County Attorney, Todd L. Kosovich, Assistant County Attorney, Little Falls, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Kirk, Presiding Judge; Rodenberg, Judge; and Florey, Judge.

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

FLOREY, Judge

Appellant argues that the evidence at his trial was insufficient to sustain his second-degree assault conviction. Because the circumstances proved at trial are consistent with appellant's guilt and inconsistent with any other rational hypothesis, we affirm.

FACTS

In July 2015, A.K. drove past a farm that he owned with his brother. He noticed that the doors of a shed were open and that a pickup with a trailer was backed up to the shed. He investigated and found appellant Brian Donald Rinkel sitting in the pickup.

A.K. confronted Rinkel, who is deaf, and asked what he was doing. Rinkel "made some grunting noises," shut the door of his pickup, and started his engine. A.K. went to the front of the pickup and put his hands on the hood. Rinkel revved the engine, causing A.K. to jump out of the way, and quickly drove off. A.K. telephoned for help and gave chase, reaching speeds of 90 mph.

The chase continued for approximately ten minutes, and A.K. got very close to the pickup at times, including points where he "was right up next to the trailer." A.K. reached a big hill and lost track of the pickup as it went over the top. When he came to the top of the hill, he saw that the pickup was headed towards him in his lane, about "500 to a thousand yards" away. Rinkel's pickup was moving fast.

A.K. stepped on his brakes, "slammed it in reverse, and started going as fast as [he] could in reverse." He was "really scared" that the pickup was going to hit him head on. Ultimately, the pickup's trailer, which was wider than the pickup, did hit A.K.'s vehicle on

the front driver's side, causing damage. A.K.'s vehicle was hit while it was still on the road, in the proper lane of travel, and it ended up going in the ditch. Rinkel stopped his pickup, got out, reached in the back of his cab, pulled out a tire iron, and "proceeded to come down in the ditch." According to A.K., Rinkel raised the tire iron, frightening A.K. Rinkel then threw the tire iron in the back of his truck and drove off.

Rinkel was charged with two counts of second-degree assault: count one involving the use of a motor vehicle, and count two involving the use of a tire iron. Over the course of a two-day jury trial, testimony was received from A.K., as well as two police officers. Rinkel moved for judgment of acquittal, and the district court dismissed count two. Rinkel, who did not testify in his own defense, was found guilty of count one, second-degree assault with a dangerous weapon, a motor vehicle. He was sentenced to 49 months in prison. This appeal follows.

D E C I S I O N

Rinkel argues that there was insufficient evidence of his intent to assault A.K. with his pickup. When addressing a sufficiency-of-the-evidence challenge, "we conduct a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the jury to reach its verdict." *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017) (quotation omitted).

Rinkel was convicted of violating Minn. Stat. § 609.222, subd. 1 (2014), which states that "[w]hoever assaults another with a dangerous weapon may be sentenced to imprisonment." "Assault" is defined, in relevant part, as "an act done with intent to cause

fear in another of immediate bodily harm or death." Minn. Stat. § 609.02, subd. 10(1) (2014). The phrase "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) (2014).

Intent is generally proved through circumstantial evidence because "it involves a state of mind." *State v. Davis*, 656 N.W.2d 900, 905 (Minn. App. 2003), *review denied* (Minn. May 20, 2003). A conviction based upon circumstantial evidence requires heightened scrutiny. *Loving*, 891 N.W.2d at 643. Under the circumstantial-evidence standard, an appellate court reviews the evidence using a two-step analysis: the appellate court first identifies the circumstances proved, deferring "to the jury's acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the [s]tate." *State v. Robertson*, 884 N.W.2d 864, 871 (Minn. 2016) (quotation omitted). Second, the reviewing court "independently examine[s] the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with a hypothesis other than guilt." *Id.* (quotation omitted). "In order to sustain a conviction based on circumstantial evidence, the reasonable inferences that can be drawn from the circumstances proved as a whole must be consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis except that of guilt." *Id.* (quotation omitted). The reviewing court must view not only the circumstances proved as a whole, but also must consider the inferences drawn therefrom as a whole. *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017).

Here, the circumstances proved at trial are consistent with Rinkel's guilt and inconsistent with any other rational hypothesis. After being discovered in A.K.'s shed and revving his engine, causing A.K. to jump out of the way, Rinkel drove away, and an extended pursuit followed. After summiting a hill, Rinkel turned his vehicle around and drove quickly towards A.K., in A.K.'s lane of traffic. Rinkel continued to drive towards A.K., even as A.K. drove in reverse, and Rinkel ultimately collided with A.K., causing damage to A.K.'s vehicle. Rinkel then stopped his pickup, brandished a tire iron, rendered no assistance, and drove off.

Rinkel asserts that "[t]he circumstances support the reasonable inference that [he] did not see [A.K.'s] car as he was driving up the hill, and that when he did see that [A.K.'s] car was in the same lane, he moved over to avoid a collision but his trailer still caught [A.K.'s] car." The evidence as a whole makes Rinkel's theory seem unreasonable, as his account fails to explain why he was in A.K.'s lane and remained there for at least "500 to a thousand yards," ultimately striking A.K.'s vehicle as it drove in reverse. Possibilities of innocence do not require reversal if "the evidence taken as a whole makes such theories seem unreasonable." *State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002) (quotation omitted). Moreover, after driving in A.K.'s lane for a considerable distance and colliding with A.K.'s vehicle, Rinkel did not stop to render aid. Rather, he brandished a tire iron and then drove off. This is further evidence of Rinkel's intent to cause fear. *See State v. Bickham*, 485 N.W.2d 923, 926 (Minn. 1992) (stating that a jury may infer a defendant's intent from the totality of circumstances).

The circumstances of this case are consistent with the hypothesis that Rinkel drove quickly towards A.K. intending to cause fear of immediate bodily harm or death. The circumstances proved are inconsistent with any other reasonable or rational hypothesis. *See Robertson*, 884 N.W.2d at 871.

Affirmed.