

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2016).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1767**

State of Minnesota,
Respondent,

vs.

Mari Beth Hamdi,
Appellant.

**Filed September 18, 2017
Affirmed
Hooten, Judge**

Hennepin County District Court
File No. 27-CR-15-19052

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

Michael O. Freeman, Hennepin County Attorney, Elizabeth R. Johnston, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Halbrooks, Judge; and Hooten, Judge.

UNPUBLISHED OPINION

HOOTEN, Judge

Appellant challenges her conviction of obstructing legal process, arguing that the evidence is insufficient to prove that she obstructed, hindered, or prevented the police

officers' execution of arrest warrants. She contends that we must reverse her conviction because her conduct was not directed at the police, did not substantially frustrate their search, and did not occur in their presence. We affirm.

FACTS

On June 28, 2015, Golden Valley police received a tip that S.Q., who was the subject of four arrest warrants, was at his home. The police arrived at the home to execute the warrants. They knocked on the partially opened door, announced their presence, and entered the home. They observed appellant Mari Beth Hamdi walking up the basement stairs. Hamdi told the police that S.Q. was not in the home. The police then ordered Hamdi to walk towards them. She instead turned around and walked back down the stairs to the basement. The police followed her, arrested her, and placed her in a squad car.

The police conducted an extensive search of the home for S.Q. and were initially unsuccessful. They then realized that they had not searched the area beneath the basement staircase. A large floor television stood against the wall of the staircase. The police moved the television and discovered a removable access panel. They opened the access panel, found S.Q. in a crawl space, and arrested him. As the police escorted S.Q. out of the home, Hamdi stated to S.Q., "What was I supposed to do?"

The state charged Hamdi with aiding an offender, in violation of Minn. Stat. § 609.495, subd. 1(a) (2014). The state later added a second charge for obstructing legal process, in violation of Minn. Stat. § 609.50, subd. 1(1) (2014). The parties agreed to the evidence and the case proceeded to a stipulated facts trial under Minn. R. Crim. P. 26.01, subd. 3.

The district court found Hamdi not guilty of aiding an offender but found her guilty of obstructing legal process. The district court concluded that Hamdi obstructed legal process because she placed the television in front of the access panel with the intention of frustrating the police officers' search efforts and hindering their ability to execute S.Q.'s arrest warrants. The district court sentenced Hamdi to 90 days in the county workhouse. Hamdi appeals.

D E C I S I O N

Hamdi contends that we should reverse her conviction because the evidence was insufficient to show that she obstructed legal process. As an initial matter, the parties dispute the standard of review. The state proposes that we evaluate whether the evidence is sufficient to sustain the district court's verdict. Under this standard, we review the evidence in a light most favorable to the verdict and will not overturn the verdict if the fact-finder could have reasonably found the defendant guilty beyond a reasonable doubt of the charged offense. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). But, Hamdi contends that the issue relates to what evidence is required for obstructing legal process, which presents a question of statutory interpretation that we review de novo. *State v. Tomlin*, 622 N.W.2d 546, 548 (Minn. 2001). Because the issue in this case centers on whether Hamdi's conduct, specifically placing the television in front of the access panel, fits within the scope of conduct prohibited by the statute, we review this issue de novo. *See State v. Pederson*, 840 N.W.2d 433, 436 (Minn. App. 2013).

A person is guilty of obstructing legal process if she intentionally "obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or

apprehension of another on a charge or conviction of a criminal offense.” Minn. Stat. § 609.50, subd. 1(1). In other words, she “must commit conduct that obstructs or hinders the lawful execution of legal process or apprehending a person in connection with that process.” *Pederson*, 840 N.W.2d at 436. But, if her conduct merely interferes with a police officer’s official duties, she does not obstruct legal process. *Id.*

A. Was Hamdi’s conduct directed at the police and did her conduct have a direct effect on the police officers’ efforts to arrest S.Q.?

Hamdi first argues that her conduct did not constitute obstructing legal process because her action of blocking the access panel with the television was directed at S.Q., not the police. In *State v. Patch*, we acknowledged the lack of caselaw indicating whether an individual may be prosecuted for obstructing legal process for actions directed at someone other than the police. 594 N.W.2d 537, 540 (Minn. App. 1999). In *Patch*, the defendant warned a woman with outstanding arrest warrants that the police were in pursuit, helped that woman find an exit, and offered her a ride. *Id.* at 537–38. We determined that the defendant’s verbal conduct was not directed at the police and “did not have any physical effect” on the pursuit of the woman. *Id.* at 538–39.

We have previously construed Minn. Stat. § 609.50, subd. 1(2), narrowly and stated that “the statute applies only to conduct directed at police officers engaged in the performance of official duties.” *State v. Morin*, 736 N.W.2d 691, 698 (Minn. App. 2007), *review denied* (Minn. Sept. 18, 2007). In *Morin*, we concluded that the defendant’s physical act of fleeing the police did not direct any physical activity toward the police, and therefore the defendant did not violate Minn. Stat. § 609.50, subd. 1(2). *Id.*

The parties do not dispute on appeal that Hamdi moved the television in front of the access panel. Hamdi asserts that the purpose of moving the television was to hide S.Q., and she relies significantly on *Patch* and *Morin* to argue that her conduct only had an indirect effect on the police officers' efforts. But, Hamdi's reliance on these cases is misplaced. Unlike in *Patch*, her conduct was primarily physical conduct, not verbal conduct. See 594 N.W.2d at 538–39. And *Morin* is not directly on point because we analyzed a different subdivision of the obstruction statute in that case. 736 N.W.2d at 697; see *Pederson*, 840 N.W.2d at 436–37 (noting the differences between Minn. Stat. § 609.50, subd. 1(1), and Minn. Stat. § 609.50, subd. 1(2)).

While there is no published caselaw that explicitly permits prosecuting a defendant for obstruction when the defendant's acts are directed at another individual *but not* the police, this case involves conduct that is directed at another individual *and* the police. See *Patch*, 594 N.W.2d at 540. Hamdi's placement of the television was conduct directed towards both S.Q. and the police. And her conduct had the type of "effect" that is more substantial than showing a fleeing individual an exit door or offering that individual a ride. See *id.* at 538. We conclude that Hamdi's conduct is exactly what Minn. Stat. § 609.50, subd. 1(1), is intended to criminalize because it demonstrated her intent to hinder or prevent the "apprehension of another."

B. Did Hamdi's conduct substantially frustrate or hinder the police officers' search?

Hamdi next argues that because the police eventually found S.Q., her conduct did not substantially frustrate or hinder the police officers' search but rather merely interrupted

their efforts. The Minnesota Supreme Court has determined that “physically obstructing or interfering with a police officer involves not merely interrupting an officer but substantially frustrating or hindering the officer in the performance of his duties.” *State v. Krawsky*, 426 N.W.2d 875, 877 (Minn. 1988). The state questions the applicability of *Krawsky* in this case because the legislature amended the statute after *Krawsky* by adding language to the statute and reorganizing the statute into multiple subdivisions. 1989 Minn. Laws. ch. 5, § 4, at 18.

While Minn. Stat. § 609.50, subd. 1(1), concerns obstruction of “the lawful execution of any legal process, civil or criminal, or apprehension of another,” Minn. Stat. § 609.50, subd. 1(2) relates to obstruction of a police officer “engaged in the performance of official duties.” Our analysis not only considers the nature of the defendant’s conduct, but also the nature of the police duties that were being disrupted. *See Pederson*, 840 N.W.2d at 437–38 (rejecting interpretation that focuses solely on defendant’s conduct because interpretation would render meaningless articulated distinction between police duties under Minn. Stat. § 609.50, subd. 1(1), (2)). Because the *Krawsky* rationale mirrors the language in Minn. Stat. § 609.50, subd. 1(2), it is not directly applicable to circumstances of the police engaging in duties enumerated in Minn. Stat. § 609.50, subd. 1(1).

Even if *Krawsky* is relevant to this case, Hamdi’s conduct of placing the television in front of the access panel rendered the police officers’ search more difficult, resulting in the failure of the police officers’ initial search to find S.Q. Although the police, after a second search, eventually discovered S.Q. in the crawl space, we conclude that Hamdi’s

decision to move the television and conceal S.Q.'s whereabouts substantially frustrated and hindered the police officers' attempt to execute the arrest warrant.

C. Does Hamdi's conduct amount to obstructing legal process even though she did not move the television in the presence of police?

Hamdi also contends that she could not have committed obstruction because she did not move the television while in the police officers' presence. In *Tomlin*, the supreme court determined that the defendant's statements that were made to third parties while the police were not present did not physically obstruct or interfere with police duties. 622 N.W.2d at 549. And, we concluded in *Patch* that the defendant's verbal assistance to a person with outstanding warrants, which occurred outside the presence of police, did not constitute obstruction under Minn. Stat. § 609.50, subd. 1(1). 594 N.W.2d at 539–40. Although *Tomlin* and *Patch* suggest that whether the person's conduct occurred in a police officer's presence is a factor in analyzing an obstruction case, neither case explicitly establishes it as a requirement.

Hamdi argues that punishing acts committed outside the police officers' presence inappropriately broadens Minn. Stat. § 609.50, subd. 1(1)—a statute that she argues Minnesota courts have previously construed narrowly. *See Krawsky*, 426 N.W.2d at 878 (“[T]he statute does not apply to ordinary verbal criticism directed at a police officer even while the officer is performing his official duties and does not apply to the mere act of interrupting an officer, even intentionally.”); *see also Morin*, 736 N.W.2d at 698 (stating that Minnesota courts interpret Minn. Stat. § 609.50, subd. 1(2), narrowly). The issue in this case is not whether Hamdi's verbal conduct obstructed legal process; rather, the issue

is whether Hamdi's physical conduct in moving the television so as to hide S.Q. from the police constitutes obstructing legal process.

Hamdi asserts that upholding her conviction would result in future defendants being convicted of obstruction for hiding drugs in dresser drawers or locking doors before police arrive. But Hamdi's hypothetical situations overlook the fact that Minn. Stat. § 609.50, subd. 1(1) prohibits conduct that "obstructs, hinders, or prevents the lawful execution of any . . . *apprehension of another.*" (Emphasis added.) Concealing or hiding a person to hinder or prevent his or her apprehension is conduct that generally must occur outside a police officer's presence in order to be successful. Though Hamdi moved the television when the police were not present, we conclude that her conduct still amounts to obstructing legal process.

Affirmed.