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STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1861

State of Minnesota,
Respondent,

vs.

Justin Jeffrey Scharenbroich,
Appellant

Filed October 2, 2017
Affirmed
Worke, Judge

Washington County District Court
File No. 82-CR-15-4670

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

David T. Magnuson, Stillwater City Attorney, Amanda K. Drew, Assistant City Attorney, Stillwater, Minnesota (for respondent)

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

Considered and decided by Worke, Presiding Judge; Larkin, Judge; and Klaphake, Judge.[*]

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

WORKE, Judge

Appellant argues that the evidence is insufficient to support his conviction of obstructing legal process and that the district court abused its discretion by failing to sanitize impeachment evidence of a prior conviction. We affirm.

FACTS

On October 31, 2015, at approximately 10:45 a.m., Officers Jason Sutherland and Paul Stenglein were dispatched to a residence to arrest appellant Justin Jeffrey Scharenbroich on a felony warrant. Officer Stenglein went to the front of the house and Officer Sutherland went to the rear.

After Officer Stenglein knocked on the front door and received no response, he called the homeowner and asked if Scharenbroich was in the residence. The homeowner replied that Scharenbroich was in the residence and agreed to bring Scharenbroich outside through the front door. Officer Sutherland then saw Scharenbroich exit a back door. Officer Sutherland yelled: “Stop, police! You’re under arrest.” Scharenbroich started running in one direction, then switched and ran in a different direction, and then ran past Officer Sutherland as fast as he could. Officer Sutherland again yelled, “Stop, police! You’re under arrest.” Scharenbroich continued running.

Hearing Officer Sutherland yelling, Officer Stenglein ran to the rear of the house. Officer Stenglein saw Scharenbroich running quickly “looking to get away,” and yelled, “Stop, police!” Officer Stenglein grabbed Scharenbroich’s wrist and did a leg sweep, which brought Scharenbroich to the ground. The officers “tackled [Scharenbroich] . . .

[and] attempted to put handcuffs on him." Scharenbroich "[s]truggled a bit" and did not comply with giving the officers his hands. Scharenbroich "kind of tensed up, almost like he still wanted to get away . . . he kept kind of moving forward and trying to crawl a little bit forward." When Officer Stenglein put Scharenbroich into an arm restraint, Scharenbroich said, "'Okay, okay, I give up.'"

A jury found Scharenbroich guilty of fleeing a police officer on foot and obstructing legal process. The district court sentenced Scharenbroich on the fleeing conviction to 90 days in jail, but stayed 50 of those days for one year. This appeal followed.

D E C I S I O N

Sufficiency of the evidence

Scharenbroich first argues that the evidence was insufficient for the jury to find him guilty of obstructing legal process because he did not substantially hinder the officers.

In reviewing a sufficiency-of-the-evidence challenge, this court reviews the record "to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jur[y] to reach the verdict [that it] did." *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). This court 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 that the defendant was guilty of the charged offenses. *State v. Alton*, 432 N.W.2d 754, 756 (Minn. 1988). This court assumes that 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); *see also State v. Pieschke*, 295 N.W.2d

580, 584 (Minn. 1980) (stating that "weighing the credibility of witnesses is the exclusive function of the jury").

The jury found Scharenbroich guilty of obstructing legal process, in violation of Minn. Stat. § 609.50, subd. 1(2) (2014). This means that the jury found that Scharenbroich intentionally "obstruct[ed], resist[ed], or interfere[d] with a peace officer while the officer [wa]s engaged in the performance of official duties." Minn. Stat. § 609.50, subd. 1(2). Scharenbroich claims that the evidence failed to show that he "substantially frustrated or hindered the deputies' attempt to arrest him."

Scharenbroich cites *State v. Krawsky*, which analyzed the constitutionality of section 609.50. 426 N.W.2d 875, 877 (Minn. 1988). The supreme court in *Krawsky* held that the statute was not unconstitutionally vague because it "clearly prohibits only intentional physical obstruction or interference with a peace officer in the performance of his duties." *Id.* at 878. Scharenbroich cites from *Krawsky* 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," *id.* at 877, and asserts that his actions did not rise to this level of substantially frustrating or hindering. But the *Krawsky* court recognized the "wide variety of circumstances" and conduct that could legitimately fall under section 609.50. *Id.* at 878. This indicates the fact-specific nature of the analysis and also the deference to be given to a jury in finding whether the alleged conduct is the kind proscribed by the statute.

Here, Scharenbroich ran when officers attempted to arrest him. The officers yelled at least three times for Scharenbroich to stop, but he ran away from them as fast as he could

"looking to get away." The officers eventually "tackled [Scharenbroich] . . . [and] attempted to put handcuffs on him," but Scharenbroich "[s]truggled a bit" and "wouldn't give [the officers] his hands." Scharenbroich "tensed up, almost like he still wanted to get away . . . he kept kind of moving forward and trying to crawl a little bit forward." These facts support the jury finding that Scharenbroich intentionally "obstruct[ed], resist[ed], or interfere[d] with a peace officer while the officer [wa]s engaged in the performance of official duties." *See* Minn. Stat. § 609.50, subd. 1(2).

Scharenbroich claims that the officers' testimony supports his claim that his non-compliance did not rise to the level of "substantially frustrating or hindering" the officers' attempt to handcuff him because they admitted that it took only 5-10 seconds to handcuff him, at which point he complied with further commands. But the short length of the struggle does not eliminate the existence of the struggle. Scharenbroich ran away as fast as he could, he ignored at least three verbal commands to stop, he had to be "tackled," he struggled, he would not give the officers his hands, and he tensed up and crawled forward to get away. The evidence sufficiently supports the jury's verdict that Scharenbroich intentionally resisted and interfered with the officers while they attempted to arrest him on a felony warrant. *See id.*

Evidence of prior conviction

Scharenbroich also argues that the district court abused its discretion by failing to sanitize impeachment evidence of a prior felony conviction.

This court reviews the district court's decision about whether a witness can be impeached by evidence of a prior conviction for an abuse of discretion. *State v. Hill*, 801

N.W.2d 646, 651 (Minn. 2011). The scope of impeachment cross-examination is left largely to the discretion of the district court. *State v. Norgaard*, 272 Minn. 48, 51, 136 N.W.2d 628, 631 (1965). Scharenbroich has the burden of showing that the district court improperly admitted the evidence and that he was prejudiced as a result. *See State v. Ness*, 707 N.W.2d 676, 685 (Minn. 2006). This court will reverse the conviction only if the district court's erroneous admission of evidence substantially influenced the jury's decision. *State v. Jackson*, 770 N.W.2d 470, 482 (Minn. 2009).

> For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted only if the crime (1) was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and the court determines that the probative value of admitting this evidence outweighs its prejudicial effect, or (2) involved dishonesty or false statement, regardless of the punishment.

Minn. R. Evid. 609(a). Scharenbroich concedes that the district court correctly determined that his 2014 felony conviction for obtaining a controlled substance by fraud was a crime of dishonesty admissible under rule 609(a)(2). Scharenbroich argues, however, that the district court "appears to have believed that because the crime was one of dishonesty, it could not sanitize the conviction." Scharenbroich fails to show how the district court failed to sanitize the evidence of his prior felony conviction.

"[I]mpeaching cross-examination of an accused must be limited to the fact of conviction, the nature of the offense, and the identity of [the] defendant." *State v. Williams*, 297 Minn. 76, 84, 210 N.W.2d 21, 25 (1973). The district court recognized this limitation. Prior to Scharenbroich testifying, the state indicated that it intended to ask Scharenbroich

"whether he was convicted of a felony in 2014 for obtaining a controlled substance by fraud." After reviewing a copy of the complaint from the prior conviction, the district court stated that the conviction "fits squarely within the dishonesty part of the ability to impeach. And I'm going to let the [s]tate impeach with the question that [the prosecutor] tendered to the [c]ourt about this conviction."

On direct examination, Scharenbroich's attorney asked him, "you have a felony conviction for a fifth-degree controlled substance offense; is that correct?" Scharenbroich stated that was correct and that it occurred in 2014. On cross-examination, the following occurred between Scharenbroich and the prosecutor:

> Q: Mr. Scharenbroich, you were convicted in 2014 of a felony drug offense. True?
> A: Um, yes.
> Q: And specifically, that offense was for obtaining a controlled substance by fraud?
> A: I pled guilty to a controlled substance [offense]. Yes.
> Q: For obtaining a controlled substance by fraud. That was the specific offense?
> A: Yes.

The evidence presented to the jury includes: Scharenbroich was convicted in 2014 of a felony drug offense—specifically, obtaining a controlled substance by fraud. *See Williams*, 297 Minn. at 84, 210 N.W.2d at 25 ("[I]mpeaching cross-examination of an accused must be limited to the fact of conviction, the nature of the offense, and the identity of [the] defendant."). There was nothing improper presented to the jury. In fact, Scharenbroich's attorney asked him if he had "a felony conviction for a fifth-degree controlled substance offense" from 2014; thus, the only additional information the jury heard on cross-examination was that Scharenbroich's prior conviction involved fraud.

Additionally, prior to the state asking Scharenbroich about his prior conviction, the district court gave the jury a cautionary instruction:

> You've heard a little bit about this already on his direct testimony, but in deciding believability and weight to be given the testimony of a witness, you may consider evidence that the witness has been convicted of a crime. You may consider whether the kind of crime committed indicates a likelihood that the witness is telling, or not telling, the truth.
>
> In the case of [Scharenbroich], you must be especially careful to consider any previous conviction, only as it may [a]ffect the weight of [his] testimony. You must not consider any previous conviction as evidence of guilt of the offenses for which [Scharenbroich is] being tried today.

This court "presume[s] that juries follow instructions given by the [district] court." *State v. Matthews*, 779 N.W.2d 543, 550 (Minn. 2010). Because the prosecutor appropriately limited the scope of cross-examination on the impeachment evidence, and the district court gave the jury a cautionary instruction, the district court did not abuse its discretion by permitting the state to impeach Scharenbroich with a prior felony conviction.

Affirmed.