STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0743

State of Minnesota,
Respondent,

vs.

Lia Pearson,
Appellant.

Filed April 23, 2018
Affirmed
Florey, Judge

Ramsey County District Court
File No. 62-CR-15-2864

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

John Choi, Ramsey County Attorney, Adam E. Petras, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

Considered and decided by Hooten, Presiding Judge; Cleary, Chief 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 challenges her conviction of second-degree manslaughter for the death of her 17-month-old daughter. She argues that the state failed to prove beyond a reasonable

doubt that she proximately caused her daughter's death by committing child endangerment. We affirm.

FACTS

G.X. was born in August 2013 to appellant Lia Pearson and C.X. C.X. and appellant are also the parents of R.X., born in October 2012. C.X. and appellant separated in July 2014, and appellant maintained custody of the children.

In August 2014, appellant began dating Leb Meak, whom she had known for five years. Around the same time, appellant started taking R.X. and G.X. to H.M. for daycare. H.M. would watch the children during the day. In the afternoon, appellant would pick up R.X. and G.X. and take them home, where her older children, S.P. and D.P., would care for them until she returned home from work. H.M. did not see any bruises on G.X. during the time that she was her care provider.

Around January 11, 2015, Meak asked appellant if he could watch G.X., and she agreed. Meak lived about an hour from appellant. Appellant would sometimes take R.X. to Meak's house, or R.X. would stay with a neighbor. In mid-January, appellant began to leave G.X. with Meak overnight.

C.X. cared for R.X. and G.X. from January 16-18. During this time, he noticed bite marks on G.X.'s arms, and approximately five small bruises on her back. On January 21, he asked appellant about the marks, and appellant told him that G.X. bruised easily and they were caused by R.X. Appellant asked Meak about the bite marks; he admitted to biting G.X. because she was "just cute, and you just want to bite them." Appellant told Meak to stop biting G.X., but continued to let him watch her.

Around January 25, appellant stayed the night at Meak's house with G.X. The next day she noticed a bump on G.X.'s head that was about the size of a half-dollar coin. G.X.'s head and face swelled as a result of the injury, and then bruised. Appellant described G.X. as "alien head" because of the shape of G.X.'s head with the swelling. Meak indicated that he did not know how the injury occurred but then told appellant that the child might have hit her head on his weights in his room. Appellant accepted this explanation. Appellant spent the day with G.X. at Meak's home. The next day, G.X. had two black eyes, which appellant believed were a result of the swelling. She did not take G.X to a doctor and left G.X. in Meak's care.

Around the time of the head injury, and possibly before, Meak's 12-year-old and 8-year-old sons approached appellant and told her that they believed Meak had been hitting G.X. One of the boys asked appellant to take G.X. home with her. Appellant told them not to tell Meak what they had told her. Appellant believed the boys were jealous of the attention G.X. received. Meak's older son testified at trial that he saw bruises on G.X.'s arms, legs, and face, and believed the bruises were a result of Meak hitting her in his room. He heard Meak hitting G.X. in his room five to seven times, and saw him strike her once or twice on the arms and legs. Meak's younger son testified that he heard swearing and slapping noises ten times and saw bruises on G.X.'s front and head. He testified that he continued to hear his father "thumping" G.X. in his room after he told appellant about the abuse.

In late January or February, S.P. saw a bruise on G.X.'s eye and a red mark on her cheek bone. She asked appellant about the injuries but could not remember appellant's

answer. D.P. also noticed bruises on G.X.'s face and forehead; appellant said they were caused by G.X. playing with weights. S.P. had not seen bruises on G.X. before she started spending time with Meak. D.P. believed that R.X. and G.X. were frightened of Meak and tried to stay away from him. S.P. saw G.X. a second time before she died, and noticed that G.X.'s eyes were sunken, she looked tired, and she had bruises around her eyes. That was the last time S.P. saw G.X.

Appellant spent the night of February 3 at Meak's house with G.X. The next day, she left G.X. at Meak's house, where G.X. would remain until she died. That night, Meak left G.X. at his home while he went to the casino. The next morning, he returned home from the casino with a woman. The woman noticed that G.X. had two black eyes and appeared frightened of Meak. Around the same time, a friend of Meak and appellant also observed that G.X. appeared frightened of Meak. Neither person told appellant of their observations.

On February 6, C.X. asked appellant if he could see his daughters. Meak refused to allow appellant to take G.X. to visit C.X. Appellant told C.X. that he could see R.X., but could not see G.X. because she was not at home. Appellant took R.X. to C.X. on February 7, and then visited Meak and G.X. at his home for the final time. She noticed a new bruise on G.X.'s forehead and asked Meak about it. He told her G.X. bumped her head on the table. Appellant continued to leave G.X. in Meak's care.

G.X. remained with Meak until her death on February 12. G.X. died of "multiple traumatic injuries of the body and head due to physical assault." An autopsy revealed 49 contusions on G.X.'s torso, 14 on her head, and too many to count on her extremities.

Some of the bruises were fresh, and others were a minimum of 36 hours old. One of G.X.'s ribs had been broken for a second time, and she had a large hemorrhage under the skin of her head that showed evidence of healing. The assistant medical examiner concluded that there had been at least three episodes of abuse: recent, 36 or more hours prior to death, and 10-14 days prior to death. The assistant medical examiner opined that the rib fracture, which had occurred 10-14 days prior to her death, and was then broken again, would have caused pain.

Meak admitted to maliciously punishing G.X. and causing her death. Meak pleaded guilty to second-degree murder, admitting that he squeezed G.X.'s chest, threw her against a wall where she hit her head, punched her abdomen two or three times, and caused one of G.X.'s ribs to break and other internal injuries.

The state charged appellant with child endangerment and second-degree manslaughter (child endangerment). A court trial was held. Appellant waived her right to remain silent and testified in her defense. She indicated that, at the time of the injuries, she believed Meak would not harm G.X., and she believed his explanations for the injuries. Appellant testified that she was concerned when Meak's sons told her about the abuse, but that "I would never believe it." Appellant testified that she never had reservations about Meak watching G.X. and believed he cared for her. Appellant agreed that G.X. spent about four weeks total in Meak's care during the four-and-a-half weeks preceding G.X.'s death.

The district court found appellant guilty of both charges. In its findings of fact and conclusions of law, the district court indicated that appellant "made an intentional and conscious choice to ignore all the obvious and visible signs of physical abuse" and to

"disregard all those that told her that Leb Meak was assaulting [G.X.]." The district court indicated that her "conscious and intentional choices . . . caused the death of her child." The district court sentenced appellant to 57 months' imprisonment.[1] This appeal followed.

D E C I S I O N

"When an appellant challenges the sufficiency of the evidence presented at trial, we review the evidence to determine whether, given the facts in the record and the legitimate inferences that can be drawn from those facts, a [fact-finder] could reasonably conclude that the defendant was guilty of the offense charged." *State v. Robertson*, 884 N.W.2d 864, 871 (Minn. 2016) (quotation omitted). We view the evidence in the light most favorable to the verdict and assume that the fact-finder disbelieved any evidence contrary to the verdict. *Id.* We use the same standard of review to evaluate the sufficiency of the evidence in bench trials and jury trials. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

When direct evidence of guilt on a particular element is not alone sufficient to sustain the verdict, appellate courts will apply a heightened standard of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). First, we identify the circumstances proved, deferring to the fact-finder's acceptance of proof supporting the circumstances and rejection of conflicting evidence. *Robertson*, 884 N.W.2d at 871. Second, we

[1] The warrant of commitment indicates that convictions were entered on both the second-degree manslaughter charge and the child-endangerment charge. Appellant does not raise the issue of whether a conviction for child endangerment was permitted under Minn. Stat. § 609.04, subd. 1 (2014). We therefore do not address whether appellant was impermissibly convicted of both crimes. *See State v. Jones*, 848 N.W.2d 528, 538 (Minn. 2014) (declining to address whether the district court erred in entering multiple convictions because the argument was not raised on appeal).

"independently examine the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with a hypothesis other than guilt." *Id.* (quotations omitted). To sustain a guilty verdict, the reasonable inferences must be consistent with guilt and inconsistent with any rational hypothesis except guilt. *Id.*

Appellant argues that the state did not present sufficient evidence to prove that she was the proximate cause of G.X.'s death. She argues the state failed to prove that she proximately caused G.X.'s death because "it was not reasonably foreseeable to [appellant] that leaving G.X. with Meak would probably result in G.X.'s death."

A person who causes the death of another "by committing or attempting to commit a violation of section 609.378 (neglect or endangerment of a child), and murder in the first, second, or third degree is not committed thereby," is guilty of manslaughter in the second degree. Minn. Stat. § 609.205(5) (2014). A parent commits child endangerment when she "intentionally or recklessly caus[es] or permit[s] a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death." Minn. Stat. § 609.378, subd. 1(b)(1) (2014).

The "intentionally or recklessly" aspect of the child-endangerment statute requires a finding of the actor's state of mind, which "generally is proved circumstantially, by inference from words and acts of the actor both before and after the incident. A [fact-finder] 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) (citation omitted); *State v. McCormick*, 835 N.W.2d 498, 507 (Minn. App. 2013), *review denied* (Minn. Oct. 15, 2013).

> A person acts "recklessly" when he consciously disregards a substantial and unjustifiable risk that the element of an offense exists or will result from his conduct; the risk must be of such a nature and degree that its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation.

State v. Zupetz, 322 N.W.2d 730, 733 (Minn. 1982) (quotation omitted). A reckless actor is *aware* of the risk and disregards it. *Id.* As used in the child-endangerment statute, "likely" means that the actions were "more likely than not" to result in substantial harm. *State v. Tice*, 686 N.W.2d 351, 355 (Minn. App. 2004), *review denied* (Minn. Nov. 16, 2004). A person may be guilty of child endangerment even if actual harm did not occur or the child was not in "actual danger." *State v. Perry*, 725 N.W.2d 761, 766 (Minn. App. 2007), *review denied* (Minn. Mar. 20, 2007); *State v. Hatfield*, 627 N.W.2d 715, 720 (Minn. App. 2001), *aff'd*, 639 N.W.2d 372 (Minn. 2002).

"A person is guilty of second-degree manslaughter when the person causes the death of another. This requires not only that the act be the cause of the death, but also that it be the proximate cause of the injury." *McCormick*, 835 N.W.2d at 507-08 (quotation omitted). The Minnesota Supreme Court has recognized that "a rigorous definition of proximate cause" is elusive. *Dellwo v. Pearson*, 259 Minn. 452, 454-55, 107 N.W.2d 859, 861 (1961). However, proximate cause "is not a matter of foreseeability." *Id.* at 455, 107 N.W.2d at 861. Whether the result of an act is foreseeable "is not at all decisive in determining whether that act is the proximate cause of an injury which ensues." *Id.* (quotation omitted).

The Minnesota Supreme Court has recognized that a defendant "causes" death, for proximate-cause purposes, if "the defendant's acts were a substantial factor in causing the death." *State v. Smith*, 835 N.W.2d 1, 4-6 (Minn. 2013) (concluding that the defendant's acts, while not the immediate cause of death, were a substantial causal factor leading to the death); *State v. Gatson*, 801 N.W.2d 134, 146 (Minn. 2011) ("To prove that a defendant is guilty of causing the death of another, the State must prove the defendant's acts were a substantial causal factor leading to the death." (quotation omitted)); *State v. Sutherlin*, 396 N.W.2d 238, 240 (Minn. 1986) (concluding that the defendant's acts were a "substantial causal factor" because the defendant's conduct "set in motion the events" leading to death); *State v. Smith*, 264 Minn. 307, 320-21, 119 N.W.2d 838, 848 (1962) (indicating that proximate cause is satisfied if the defendant's acts "were a contributory cause" of death (quotation omitted)).

The supreme court has also indicated that proximate cause is satisfied if "the injury was the natural and probable consequence" of the defendant's act. *Dellwo*, 259 Minn. at 455, 107 N.W.2d at 861 (quotation omitted). "Consequences which follow in unbroken sequence, without an intervening efficient cause, from the original negligent act, are natural and proximate; and for such consequences the original wrongdoer is responsible, even though he could not have foreseen the particular results which did follow." *Id.* at 455-56, 107 N.W.2d at 861-62 (quotation omitted); *see also Smith*, 264 Minn. at 318, 119 N.W.2d at 846 ("Whoever does a wrongful act is answerable for all the consequences that may ensue in the ordinary and natural course of events, though such consequences are

immediately and directly brought about by intervening causes, if such intervening causes are set in motion by the original wrongdoer." (quotation omitted)).

In *Lubbers v. Anderson*, the supreme court articulated a test for whether a party's negligent act was the proximate cause of an injury:

> [T]he act must be one which the party ought, in the exercise of ordinary care, to have anticipated was likely to result in injury to others, though he could not have anticipated the particular injury which did happen. There must also be a showing that the defendant's conduct was a substantial factor in bringing about the injury.

539 N.W.2d 398, 401 (Minn. 1995) (quotations omitted).

Appellant argues that it was not foreseeable to her that G.X.'s death would result from placing G.X. in Meak's care. As discussed above, foreseeability of the actual harm suffered is not required for a showing of proximate cause. *Smith*, 264 Minn. at 321, 119 N.W.2d at 848 (indicating that it did not matter that the defendant "did not reasonably anticipate that his act would cause death"). Rather, the test is whether appellant's acts were a substantial causal factor in the death, *Smith*, 835 N.W.2d at 4, and appellant should have anticipated that her acts were likely to result in an injury, *Lubbers*, 539 N.W.2d at 401. Therefore, the state was not required to prove that appellant foresaw G.X.'s death, if she ought to have anticipated that an injury would result to G.X. by Meak's continued care.

Our review of the record satisfies us that the state presented sufficient evidence to prove that appellant caused G.X.'s death by committing child endangerment. The state proved at trial that G.X. was not injured before she started spending time with Meak. G.X. was repeatedly injured over the course of several weeks while with Meak, including head

injuries, small bruises, bite marks, and a broken rib. Appellant was aware of the head injuries, small bruises, and bite marks that occurred in January and early February. Appellant accepted Meak's explanation of a head injury that occurred while G.X. was in Meak's care, though Meak admitted he did not know how the wound occurred. Appellant refused to take G.X. to a doctor or to visit C.X. after the head wounds occurred. Meak's children warned appellant that Meak was harming G.X. C.X. warned appellant that someone bit G.X., and appellant knew that Meak had bitten G.X. Observant bystanders believed that G.X. appeared frightened of Meak. Appellant continued to leave G.X. in Meak's care for days at a time after she was warned of the abuse and witnessed numerous bruises and injuries.

A fact-finder could reasonably infer that appellant was aware of a risk that G.X. would be substantially harmed if left in Meak's care, and she consciously disregarded that risk. Because she consciously disregarded the risk that G.X. may be harmed, and continued to place G.X. in Meak's care, G.X.'s death resulted. Appellant's acts, in consciously disregarding the risk that G.X. may be harmed and permitting G.X. to remain in Meak's care, were a substantial causal factor in G.X.'s death. *See Smith*, 835 N.W.2d at 4; *State v. Olson*, 435 N.W.2d 530, 534-35 n.4 (Minn. 1989) ("[I]t is not necessary that the defendant's acts be the sole cause of death, so long as the defendant's acts start a chain of events which results in or substantially contributes to the death.").

Appellant asserts that the evidence does not demonstrate that her actions caused G.X.'s death because Meak gave plausible explanations for G.X.'s injuries, no one saw Meak abuse G.X., and she believed that Meak arranged for someone to watch G.X. when

he was away from home. Essentially, appellant argues that it is reasonable to infer from the circumstances proved that she did not proximately cause G.X.'s death because she could not have anticipated that G.X. would die as a result of being left in Meak's care. But to prove proximate cause, the state does not need to prove that the defendant anticipated death; rather, the state is required to prove both that the defendant could have reasonably anticipated that an injury would result, and that her acts were a substantial cause of the end result. *Lubbers*, 539 N.W.2d at 401. Given the warnings that appellant received about the abuse and the visible manifestations of harm caused to G.X., it is not reasonable to infer that appellant could not have anticipated further injury to G.X.

Affirmed.