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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1775**

State of Minnesota,
Respondent,

vs.

Stephanie Rae Holdingeagle,
Appellant.

**Filed November 13, 2018
Affirmed
Smith, Tracy M., Judge**

Otter Tail County District Court
File No. 56-CR-16-1829

Lori Swanson, Attorney General, Michael Everson, Assistant Attorney General, St. Paul, Minnesota; and

Michelle Eldien, Otter Tail County Attorney, Fergus Falls, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Reilly, Judge; and
Smith, John, Judge.*

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

UNPUBLISHED OPINION

SMITH, TRACY M., Judge

Appellant Stephanie HoldingEagle¹ challenges the sufficiency of the evidence to support her conviction of false imprisonment. She argues that any confinement or restraint that occurred was “completely incidental” to committing the crime of criminal sexual conduct, of which she was acquitted and her boyfriend was convicted. We affirm.

FACTS

On June 11, 2016, T.H., a 22-year-old woman, attended a street dance in Fergus Falls. T.H. was supposed to meet a friend there, but the friend did not show up. T.H. sat at a picnic table, and HoldingEagle and her boyfriend, Michael Jaros, came over to the table and sat down. T.H. did not know HoldingEagle or Jaros, but they soon started talking, drinking, and listening to music together.

After a while, they decided to go to a local bar together. At around 12:30 a.m., HoldingEagle and Jaros invited T.H. to come back with them to Jaros’s house. T.H. accepted their offer, and the three of them drove to Jaros’s house together.

When T.H., HoldingEagle, and Jaros arrived at the house, they began to drink more and play games. After about an hour, T.H. started to get tired and told HoldingEagle and Jaros that she wanted to go home. HoldingEagle and Jaros said that T.H. had had too much

¹ The case caption in the district court identifies appellant as “Stephanie Rae Holdingeagle” and that is the name used in the caption on appeal. However, many documents in the record, and appellant’s own signature, identify her last name as “HoldingEagle.” The caption on appeal must match the caption used in the district court, *see* Minn. R. Civ. App. P. 143.01, but we use “HoldingEagle” in the body of this opinion.

to drink and invited her to sleep on the couch. T.H. agreed. While T.H. lay on the couch, HoldingEagle sat down with her and rubbed her leg. T.H. became uncomfortable, told HoldingEagle she was not interested in women, and left.

However, T.H. realized that she had forgotten her cell phone in the house. She went back to the house, retrieved the phone, and tried to leave again, but Jaros grabbed her by the arm and threw her onto the couch. T.H. told Jaros to get off her, but he slapped her, pulled off her jeans and underwear, and inserted his penis into her vagina. While T.H. was struggling with Jaros, she told HoldingEagle, “Get him off of me. I don’t want this.” HoldingEagle responded by saying, “You shouldn’t have pissed him off.”

As T.H. continued to try to push Jaros off of her, he began to choke her. HoldingEagle told Jaros, “Don’t choke her too much because we don’t want her passing out.”² Jaros continued to sexually assault T.H., and HoldingEagle went into the kitchen. Jaros then pulled T.H. off the couch, removed her t-shirt and bra, pulled her into the bedroom, and continued the sexual assault. HoldingEagle entered the room and grabbed T.H.’s legs, pushing them over the top of Jaros’s back while Jaros sexually assaulted T.H. T.H. testified that she tried to leave about five times, but Jaros kept holding her down. Eventually Jaros and HoldingEagle allowed T.H. to leave. The whole episode from the couch to the bedroom lasted from two to two-and-one-half hours.

² T.H. testified that, at this point, Jaros instructed HoldingEagle to perform oral sex on T.H., which HoldingEagle did. HoldingEagle denied this account. The jury acquitted HoldingEagle of first-degree criminal sexual conduct (sexual penetration). *See* Minn. Stat. § 609.342, subd. 1(e)(i), (f)(i) (2014).

Respondent State of Minnesota charged HoldingEagle with two counts of first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(e)(i), and Minn. Stat. § 609.342, subd. 1(f)(i), as well as false imprisonment under Minn. Stat. § 609.255, subd. 2 (2014). The state charged Jaros with the same crimes.

The jury found HoldingEagle guilty of false imprisonment but not guilty of criminal sexual conduct. The jury found Jaros guilty on all three charges. The district court stayed imposition of HoldingEagle’s sentence and placed her on probation for four years.

This appeal follows.

D E C I S I O N

In a criminal case, the state must prove every element of a crime beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364, 90 S. Ct. 1068, 1073 (1970). When reviewing a challenge to the sufficiency of the evidence, an appellate court “is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *State v. Crow*, 730 N.W.2d 272, 280 (Minn. 2007) (quotation omitted). We assume that the jury credited the state’s witnesses and drew reasonable inferences in favor of the state. *See State v. Jackson*, 726 N.W.2d 454, 460 (Minn. 2007). We will not disturb a verdict if the jury could have found, after giving due regard to the presumption of innocence and the requirement of reasonable doubt, that the defendant was guilty of the charged offense. *Crow*, 730 N.W.2d at 280.

HoldingEagle challenges her conviction of false imprisonment. A conviction of false imprisonment requires that the defendant “intentionally confine[d] or restrain[ed]”

another person without authority and without that person's consent. Minn. Stat. § 609.255, subd. 2. Because the state charged HoldingEagle with aiding and abetting false imprisonment, it was required to prove beyond a reasonable doubt that she, either as the principal actor or aiding and abetting Jaros, intentionally confined or restrained T.H. against her will. Minn. Stat. §§ 609.05, subd. 1 (2014) (aiding and abetting), .255, subd. 2 (false imprisonment).

HoldingEagle argues that the evidence is insufficient to support her conviction of false imprisonment because any confinement or restraint "committed either by her or Mr. Jaros" was completely incidental to the commission of criminal sexual conduct. She relies on the supreme court's decision in *State v. Welch*, 675 N.W.2d 615, 620 (Minn. 2004).

In *Welch*, the defendant was convicted of attempted criminal sexual conduct and kidnapping after attacking a woman in a park and pinning her to the ground. *Id.* at 616-18. The supreme court affirmed the criminal-sexual-conduct conviction but reversed the kidnapping conviction, holding that any confinement or removal, which is a required element of kidnapping, *see* Minn. Stat. § 609.25, subd. 1 (2000), was "completely incidental" to the criminal sexual conduct and could not support the separate kidnapping charge. *Welch*, 675 N.W.2d at 615-16. The supreme court relied on its earlier decision in *State v. Smith*, which held, in the context of kidnapping, that "confinement or removal must be criminally significant in the sense of being more than merely incidental to the underlying crime in order to justify a separate criminal sentence." 669 N.W.2d 19, 32 (Minn. 2003), *overruled on other grounds by State v. Leake*, 699 N.W.2d 312 (Minn. 2005). The *Smith*

court explained that “convictions that solely rely on acts incidental to the commission of one crime . . . to constitute the elements of kidnapping (confinement) unduly exaggerate the criminality of the conduct.” *Id.*

The policy concern at issue in *Welch* and *Smith* was the disproportionately lengthy incarceration that would occur for multiple convictions due to kidnapping sentencing laws. *Welch*, 675 N.W.2d at 621 & n.5; *Smith*, 669 N.W.2d at 32 & n.2. This concern exists, in part, because kidnapping is a crime for which a specific statutory exception allows for imposition of multiple consecutive sentences. *See* Minn. Stat. § 609.251 (2014) (“[A] prosecution for or conviction of the crime of kidnapping is not a bar to conviction of or punishment for any other crime committed during the time of the kidnapping.”); *State v. Swanson*, 707 N.W.2d 645, 659 (Minn. 2006) (“A . . . kidnapping sentence may be served consecutively to sentences for other crimes committed during the kidnapping.”).

For several reasons, the rule in *Welch* and *Smith* is not applicable here. First, HoldingEagle was convicted of false imprisonment, not kidnapping, and there is no reported case applying *Welch* and *Smith* in the context of false imprisonment.

Second, even if *Welch* and *Smith* do apply in the context of false imprisonment, there is no risk of unfairly exaggerating the criminality of HoldingEagle’s conduct by imposing multiple sentences because she was convicted of only one crime. The holdings in *Welch* and *Smith* focus on whether the confinement or removal is criminally significant in order to justify *a separate criminal sentence*. *Welch*, 675 N.W.2d at 621; *Smith*, 669 N.W.2d at 32. There is no need to analyze whether HoldingEagle’s crime was completely incidental to an underlying felony because she was not convicted of an underlying felony

and thus is not subject to a separate criminal sentence. The concern over disproportionately lengthy incarceration is simply not present.

Third, HoldingEagle cites no authority to support the proposition that the “completely incidental” analysis from *Welch* and *Smith* applies to a situation where another person (here, Jaros) is convicted of the putative underlying felony. Again, HoldingEagle was convicted of and sentenced for only one crime; the policy concern at the heart of *Welch* and *Smith* is absent.

Because HoldingEagle was convicted only of false imprisonment, the conduct on which her conviction was based was not incidental to any underlying felony. Sufficient evidence supports her conviction.

Affirmed.