

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0253**

State of Minnesota,
Respondent,

vs.

Dakota James-Burcham Thompson,
Appellant.

**Filed December 23, 2019
Affirmed
Ross, Judge**

Beltrami County District Court
File No. 04-CR-18-2457

Keith Ellison, Attorney General, St. Paul, Minnesota; and

David Hanson, Beltrami County Attorney, River D. Thelen, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

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

Considered and decided by Ross, Presiding Judge; Rodenberg, Judge; and Jesson,
Judge.

S Y L L A B U S

The term “fictitious name” in the statutory prohibition against giving a fictitious name to a peace officer, *see* Minn. Stat. § 609.506, subd. 1 (2016), includes any name or name variant that would tend to mislead the officer away from one’s true identity.

OPINION

ROSS, Judge

Dakota James-Burcham Thompson identified himself to a police officer as Dakota James Burcham, omitting his last name, during a traffic stop to avoid revealing to the officer his identity as the subject of an outstanding arrest warrant. The state charged Thompson with giving a “fictitious name” to a peace officer in violation of Minnesota Statutes section 609.506, subdivision 1, and a jury found him guilty. Thompson appeals, challenging the sufficiency of the evidence by arguing that a person violates the statute’s prohibition against giving an investigating officer a “fictitious name” only by providing a fabricated or concocted name but not a misleadingly shortened version of one’s actual name. We affirm the conviction because we hold that the statute criminalizes giving an investigating police officer any name or name variant that would tend to mislead the officer away from one’s true identity in official records.

FACTS

Beltrami County Sheriff’s Deputy Nicholas Bender stopped a car for speeding in July 2018 and saw indications that the occupants may have been involved in drug activity. Deputy Bender asked the car’s passenger to identify himself. The passenger identified himself only as “Kota.” The deputy asked if “Kota” was short for “Dakota.” The passenger said that it was. The deputy then asked the passenger to state his middle and last name, to which the passenger gave “James” as his middle name and “Burcham” as his last name. The deputy asked the passenger’s date of birth and perceived that the passenger hesitated in answering. The deputy went to his squad car with the information and conducted a

records check based on the passenger's stated date of birth and name, "Dakota James Burcham," including any aliases. The search produced no results.

The deputy returned to the stopped car and asked the passenger whether "Dakota James Burcham" was his real name and whether he had ever gone by any other name. The passenger assured the deputy that it was his real name, and he said that he had not gone by any other.

Deputy Bender again went to his squad car, broadening his records search. The deputy eventually determined that the passenger had been withholding his last name—Thompson. He discovered that, according to the passenger's driving record and criminal record, he was actually Dakota James-Burcham Thompson and subject to immediate seizure under an active arrest warrant. Deputy Bender arrested Thompson under the warrant and charged him with giving a "fictitious name" to a peace officer under Minnesota Statutes section 609.506, subdivision 1.

Thompson testified at trial about having given the deputy "Dakota James Burcham" as his name during the traffic stop. He said that it had been his original name as a child before he was adopted, which occurred when he was age "nine or ten." He said that he is a Native American and claimed that he uses the name Dakota James Burcham for tribal matters, allegedly because the tribe lacks his adoption records. He admitted, however, that he has gone by Dakota James-Burcham Thompson, his actual and legal name, for 11 to 13 years. Questioned as to why he gave Deputy Bender the name Dakota James Burcham rather than his real name with his true last name, Thompson answered that he was

“hesita[nt] with law enforcement due to [his] past.” The jury found Thompson guilty. He appeals.

ISSUE

Was the evidence sufficient to convict Thompson of giving a fictitious name to a peace officer?

ANALYSIS

Thompson argues that the state did not offer evidence sufficient to support the conviction. We generally review claims of insufficient evidence by conducting a “painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). But “it is often necessary to interpret a criminal statute when evaluating an insufficiency-of-the-evidence claim,” and we undertake a de novo review in those situations. *State v. Vasko*, 889 N.W.2d 551, 556 (Minn. 2017). Thompson’s argument requires us to interpret and apply the following statute of his conviction:

Whoever with intent to obstruct justice gives a fictitious name other than a nickname, or gives a false date of birth, or false or fraudulently altered identification card to a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), when that officer makes inquiries incident to a lawful investigatory stop or lawful arrest, or inquiries incident to executing any other duty imposed by law, is guilty of a misdemeanor.

Minn. Stat. § 609.506, subd. 1.

Thompson argues specifically that the term “fictitious” in this statute means wholly fabricated or concocted, and therefore that the district court could convict him only if the

state had proved that he gave a fabricated or concocted name to the deputy. Because he gave Deputy Bender merely a shortened version of his actual name rather than a made-up name, Thompson continues, the evidence is insufficient to support his conviction. For the following reasons, we reject Thompson’s reading of the statute and conclude that sufficient evidence supports his conviction.

Thompson directs us to an English language dictionary to persuade us that the word “fictitious” means “[c]oncocted or fabricated, especially in order to deceive or mislead; make up.” *The American Heritage Dictionary of the English Language* 654 (5th ed. 2011). We think Thompson’s cited definition supports rather than undermines his conviction. This is especially so for two reasons. The first is that, although a dictionary may be useful, the statute itself is the best place to discern its meaning, and the context of the term within the statute provides a nuance that the dictionary definition by itself does not capture. The second is that the terms “concocted” and “fabricated” are literally accurate descriptions of Thompson’s response to the deputy.

To accurately interpret a statute, we first look at its terms in context within the statute and consider how it will be applied. Often, though not here, the legislature expressly defines key terms of its statutes. But more often, the meaning of a statutory term is derived from the context of its usage, based on how the term applies in real circumstances. As the legislature declares, we should look first for meaning in “the words of a law in their application to an existing situation.” Minn. Stat. § 645.16 (2018). And the only expressly described “situation” the legislature referenced for application of section 609.506, subdivision 1, is a person’s intentional obstruction of a peace officer by falsely identifying

himself during an investigatory stop or lawful arrest. The text plainly implies the legislature's awareness that, during a stop or arrest, an officer is authorized to ask the person of interest his name to inquire in police databases to "determin[e] whether there are outstanding warrants" against the person. *Rodriguez v. United States*, 135 S. Ct. 1609, 1615 (2015). A person's "name" therefore refers to his full and actual name to determine his actual identity. In this context a name is the link between the person encountered by police and the criminal, vehicular, driving, or other official records police may have compiled about the person. There are likely other reasons for the statute. But looking to its most obvious situational application, we understand that a "fictitious name" includes a name that would tend to mislead in the investigatory context; it is a name that thwarts the investigatory purpose of an officer's inquiry into the person's identity. This background frames our analysis of Thompson's dictionary argument.

In this framing, we see that the dictionary terms "concocted" and "fabricated" are literal descriptions of the name Thompson gave the deputy. That is, even if we assume that Thompson's cited definition is the one the legislature intended, the definition does not render the evidence of Thompson's guilt insufficient. This is because a person's name as a whole can be concocted or fabricated so as to mislead an officer away from one's true identity even if the name's components are not themselves entirely concocted or wholly fabricated. It is the properly arranged, *full* name that constitutes one's "name" for the identification implied in the statute. The components of a person's name are not like the ingredients of a salad, which can be rearranged or even substituted without creating anything truly new or different. But rearranging, adding, or subtracting components of a

person's name has the same effect as making up an entirely new name from thin air because each method results in a full name that does not directly identify the actual person. We know, for illustration, that United States Constitutional Convention delegate Luther Martin was not Protestant reformer Martin Luther, and Martin Luther was not civil rights leader Martin Luther King Jr. It is the unique and correct arrangement of all essential components that constitutes the full name and accurately identifies a distinct person.

While Thompson's characterization that he merely "gave a shortened version of his full legal name" is accurate, we reject his conclusion that "it was not concocted or fabricated." Omitting his last name resulted in a fabrication that perhaps identified some other person, but it did not identify Thompson. That misidentification certainly results from adding to or omitting one's last name is not disputable. *See, e.g.,* Elspeth Reeve, *Bachmann Proud to Share Origins with John Wayne . . . Gacy, Serial Killer*, *The Atlantic* (June 27, 2011), <https://www.theatlantic.com/politics/archive/2011/06/bachmann-proud-be-home-john-wayne-gacy/352214/> (reporting presidential candidate's mistaking birthplaces of killer John Wayne Gacy and actor John Wayne). More generally, we reject the argument that Thompson's stated name was not fictitious. Thompson admitted that he offered the first-middle-last-name arrangement "Dakota James Burcham" instead of an accurate arrangement (either "Dakota Thompson" or "Dakota James-Burcham Thompson") to prevent police from connecting him to his "past." Put more bluntly, he recognized that, by omitting his last name, he was giving the deputy a name that would tend to prevent the deputy from identifying who he really was. He provided a fiction.

Another aspect of the statute corroborates our understanding that a “fictitious name” is not limited to names comprised of entirely created components. The statute prohibits a person from giving “a fictitious name *other than a nickname*.” Minn. Stat. § 609.506, subd. 1 (emphasis added). The term “other than” means “[w]ith the exception of; except for; besides.” *American Heritage, supra*, at 1249. And its use in this sentence informs us that the legislature understood a “nickname” to be a type of “fictitious name”—albeit one that is exempted from the prohibition. Although some nicknames might be entirely new creations, the most common nicknames are merely variations or reductions of a person’s real name. John for Jonathan, for example, and Abby for Abigail, Chris for Christopher, Kate for Katherine, and so on. The legislature therefore appears not to have assumed, as Thompson argues, that “fictitious” means only entirely made up from nothing.

We add that this interpretation is consistent with our implied understanding in another case. In *State v. Costello*, although the meaning of “fictitious” was not before us and therefore not decided, we affirmed a defendant’s conviction of providing a fictitious name under the same subdivision when he gave an officer his brother’s name instead of his own. 620 N.W.2d 924, 928 (Minn. App. 2001), *rev’d on other grounds*, 646 N.W.2d 204 (Minn. 2002). Thompson similarly gave the deputy a name other than his own.

In sum, we hold that the term “fictitious name” in section 609.506 is not limited to a name comprised entirely of made-up components; it includes any name or name variant that would tend to mislead an inquiring police officer away from one’s true identity. And in this case, by providing an omission that falsely indicated that part of his middle name was his last name, Thompson provided a fictitious name. We emphasize that our

interpretation does not support a conviction of a person for merely providing a variation of his true name, because the statute punishes only those who give a fictitious name “with intent to obstruct justice.” Minn. Stat. § 609.506, subd. 1. This *mens rea* element is also met here and not disputed on appeal.

D E C I S I O N

The jury heard sufficient evidence to find Thompson guilty of providing a “fictitious name” to a peace officer under Minnesota Statutes section 609.506, subdivision 1, because he gave the deputy a misleading alteration of his name by omitting his last name, and he did so intending to obstruct justice.

Affirmed.