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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1550**

State of Minnesota,
Respondent,

vs.

Danielle Elizabeth Greyeagle,
Appellant.

**Filed August 24, 2020
Affirmed
Bratvold, Judge**

Redwood County District Court
File No. 64-CR-18-790

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

Jenna M. Peterson, Redwood County Attorney, Redwood Falls, Minnesota; and

Travis J. Smith, Special Assistant County Attorney, Slayton, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rachel F. Bond, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Segal, Chief Judge; and Bjorkman, Judge.

UNPUBLISHED OPINION

BRATVOLD, Judge

Appellant seeks review of a final judgment of conviction for second-degree assault, arguing that the state failed to prove beyond a reasonable doubt that appellant assaulted

another using her vehicle as a dangerous weapon. After reviewing the record evidence in the light most favorable to the jury's verdict, we conclude that there was sufficient evidence to support appellant's conviction. Thus, we affirm.

FACTS

On May 15, 2019, a jury found appellant Danielle Elizabeth Greyeagle guilty of second-degree assault based on her conduct with A.C. (victim). The facts are summarized from evidence received during trial.

Greyeagle and the victim have known each other for "a few years." Greyeagle dated a female friend of the victim, but they broke up. Greyeagle began dating someone else, and, on May 30, 2018, Greyeagle's new boyfriend and the victim "agreed to [] fight" and "had a little scuffle." A few hours after the fight, Greyeagle entered the bar where the victim was working at a casino in Morton. Greyeagle "chased and swung" at the victim, who ran into the kitchen. Greyeagle "kicked the [kitchen] door open and was screaming" until a manager told her to leave. The manager mailed Greyeagle a trespass notice, warning her that she was excluded for one year from the casino and the nearby Cenex Gas Station (C-store), which shares a parking lot with the casino.

On June 4, the victim parked his car behind the C-store and went inside to make a purchase and talk to his significant other, who worked at the C-store. As the victim exited the store and walked to his car, he saw Greyeagle "staring at [him]" from her black sports utility vehicle (SUV) parked "right in front" of the C-store. The victim entered his white 2014 four-door sedan "right away and started to pull out." The victim testified that he saw

Greyeagle “flying in front” of the C-store and she “sped up like she was gonna come hit [him] with her truck.”

Different cameras captured surveillance video of the two vehicles. The videos were received into evidence and played for the jury. One video recorded the encounter from the casino’s hotel roof (rooftop video). The rooftop video shows the back of the C-store, a parking lot in front of the C-store, and a driveway that connects the C-store front parking lot to a larger parking lot shared with the casino.

The rooftop video shows that the victim pulled out of his parking spot located behind the C-store and then drove through the parking lot. Greyeagle’s SUV drove towards the victim’s sedan by going around the front of the C-store. The victim’s sedan and Greyeagle’s SUV approached a parking-lot exit from two different angles, with the sedan just slightly ahead. Greyeagle’s SUV then drove directly towards the passenger side of the victim’s sedan. At about the same time, Greyeagle’s SUV slowed and the victim’s sedan swerved and continued towards the exit. The two vehicles did not make contact. During trial, a police sergeant testified that if the vehicles had connected, the “front of the black SUV” would have hit “the passenger door of the white vehicle.”

The victim testified that the SUV did not hit him because he “cranked [his] wheel all the way to the left and [he] floored [his] gas.” The victim also testified that after Greyeagle “almost hit [him],” she followed him “like cat and mouse through the [casino] parking lot.” Greyeagle did not follow the victim after he exited the casino parking lot.

On October 17, 2018, respondent State of Minnesota charged Greyeagle with second-degree assault under Minn. Stat. § 609.222, subd. 1 (2016) (dangerous weapon)

(count one), fifth-degree assault under Minn. Stat. § 609.224, subd. 1(1) (2016) (intent to cause fear of immediate bodily harm or death) (count two), fifth-degree assault under Minn. Stat. § 609.224, subd. 1(2) (2016) (intent to inflict or attempt to inflict bodily harm) (count three), and trespass under Minn. Stat. § 609.605, subd. 1(b)(8) (2016) (return to property of another within one year after being excluded) (count four). Greyeagle pleaded not guilty.

On the first day of trial, before jury selection, the state dismissed count three. During trial, the state offered testimony from the victim, a casino manager, a C-store employee, and a police sergeant who investigated the incident. Besides the facts summarized above, the victim testified that during the June 4 parking-lot incident he was “nervous” and “fearful” because he “was about to get hit with a truck.” The C-store employee testified that, after the victim left the store, she saw Greyeagle drive “through the parking lot of the C-store” at an estimated speed of “over ten [] miles an hour.” The employee did not see Greyeagle’s SUV approach the victim’s sedan.

Greyeagle waived her right to remain silent, and testified that, while driving on June 4, she “happened to see” the victim in the C-store parking lot. She testified that she wanted to “talk to him and tell him to leave [her and her boyfriend] alone.” Greyeagle testified that she “[d]rove around the back” of the store “with a little speed,” but that the victim “saw [her] and he got in his car.” Greyeagle testified that it “wasn’t [her] intention to hit him with [her] car,” and she denied trying to scare him. She testified that she followed him hoping he would stop and talk to her.

During deliberations, the jury asked to watch the surveillance videos and the district court granted the request. The jury found Greyeagle guilty of second-degree assault

(count one) and fifth-degree assault (count two), and acquitted Greyeagle of trespass (count four). On a special verdict form, the jury found that Greyeagle was “in possession of or using” a dangerous weapon during the assault. In July 2019, the district court convicted Greyeagle on count one and imposed an executed sentence, committing her to the commissioner of corrections for 18 months. Greyeagle appeals.

D E C I S I O N

A. Standard of Review

To begin with, the parties dispute the applicable standard of review. Greyeagle argues that the issue presented is a question of statutory interpretation that this court should review de novo because “her conduct does not violate the charged statute.” The state disagrees, arguing that Greyeagle’s brief has not articulated an issue about “the meaning” of the statute; instead, the state argues that Greyeagle disputes “the application” of the statute to the facts. The state contends that this court should review Greyeagle’s conviction for sufficiency of the evidence.

We agree with the state.¹ In her brief to this court, Greyeagle does not contend that we must interpret statutory language, nor does she argue what that interpretation should

¹ We acknowledge that de novo applies to determine whether an appellant’s conduct, as a matter of law, violates a statute. *See, e.g., State v. Vasko*, 889 N.W.2d 551, 556 (Minn. 2017) (stating that when “the meaning of a criminal statute is intertwined with” whether the state proved that the defendant violated the statute, “it is often necessary to interpret a criminal statute when evaluating an insufficiency-of-the-evidence claim”); *State v. Hayes*, 826 N.W.2d 799, 803-06 (Minn. 2013) (interpreting the definition of drive-by shooting to determine its meaning and then reviewing the sufficiency of the evidence). But Greyeagle’s brief does not cite *Vasko* or *Hayes* and we do not read Greyeagle’s brief to make this argument. Greyeagle does not challenge the *meaning* of the dangerous weapon definition,

be. Greyeagle relies on *State v. Henderson*, 907 N.W.2d 623 (Minn. 2018) and *State v. Coauette*, 601 N.W.2d 443 (Minn. App. 1999), *review denied* (Minn. Dec. 14, 1999), to argue that de novo review is appropriate.

It is true that both cases involve the interpretation of statutes. In *Henderson*, the supreme court interpreted “operating” in the criminal-vehicular-operation statute, Minn. Stat. § 609.2113, subd. 1 (2016), to mean “any act that causes a motor vehicle to function or controls the functioning of the motor vehicle.” 907 N.W.2d at 628. The supreme court concluded that the evidence was sufficient to support appellant’s conviction because he manipulated the steering wheel of the moving vehicle, which was “operating” the vehicle under the statute. *Id.* In *Coauette*, this court reviewed a second-degree assault conviction and interpreted “firearm” in the definition of “dangerous weapon,” as found in Minn. Stat. § 609.02, subd. 6 (1998). 601 N.W.2d at 447. We concluded that a paintball gun was not “inherently” a dangerous weapon. *Id.* We also determined that the paintball gun was not “transformed into a dangerous weapon” under the facts in that case because there was “no evidence that appellant used the gun in a manner calculated to cause great bodily harm.” *Id.* at 447-48.

But the courts in *Henderson* and *Coauette* applied de novo review to questions of statutory interpretation. *Henderson*, 907 N.W.2d at 625 (“[W]e are presented with a question of statutory interpretation that we review de novo.”); *Coauette*, 601 N.W.2d at 445 (“This case turns, in its entirety, on statutory interpretation . . . which we review de

or argue how the meaning of the statute is “intertwined with” the evidence, as in *Vasko*, 889 N.W.2d at 556.

novo.”). In contrast, Greyeagle’s brief to this court does not articulate a question of statutory interpretation.

Rather, Greyeagle exclusively argues that “her conduct does not violate the charged statute” because the evidence does not sufficiently prove that she used her SUV as a dangerous weapon. This issue does not require statutory interpretation. An object may be “convert[ed]” into a dangerous weapon based on the facts and circumstances established during trial. *State v. Basting*, 572 N.W.2d 281, 282 (Minn. 1997) (holding that a defendant’s professional boxing training and experience was not sufficient evidence to “convert” his fist into a dangerous weapon under the second-degree assault statute). Determining whether the evidence is sufficient to prove that Greyeagle’s conduct violated the second-degree assault statute asks this court to apply the law to the facts. *See, e.g., State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016) (“The application of the law to Dorn’s conduct requires an evaluation of the sufficiency of the evidence.”). We therefore conclude that Greyeagle challenges whether the record evidence is sufficient to support her conviction, and does not raise an issue involving the interpretation of the relevant statute.

B. Sufficiency of the evidence

When reviewing a sufficiency-of-the-evidence challenge, we examine the record “to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the jury to reach its verdict.” *State v. Hohenwald*, 815 N.W.2d 823, 832 (Minn. 2012) (quotation omitted) (citation omitted). During this review, we “assume the factfinder believed the State’s witnesses and disbelieved any evidence to the contrary.” *Id.* We will not “disturb a verdict if the jury,

acting with due regard for the presumption of innocence and for the necessity of overcoming it by proof beyond a reasonable doubt, could reasonably conclude that the defendant was proven guilty of the offense charged.” *State v. Flowers*, 788 N.W.2d 120, 133 (Minn. 2010) (quotation and alterations omitted).

The state must prove every element of an offense beyond a reasonable doubt. *State v. Cross*, 577 N.W.2d 721, 726 (Minn. 1998). The jury found Greyeagle guilty of second-degree assault under Minn. Stat. § 609.222, subd. 1, which provides that a person who “assaults another with a dangerous weapon” is guilty of second-degree assault. Because Greyeagle challenges only whether the evidence was sufficient to prove that she used her SUV as a dangerous weapon, we do not evaluate the other elements of her second-degree assault conviction.

A dangerous weapon is defined, in relevant part, as “any device designed as a weapon and capable of producing death or great bodily harm,” or any “other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.” Minn. Stat. § 609.02, subd. 6 (2016). The state needed to prove beyond a reasonable doubt that Greyeagle assaulted the victim using (1) a device or instrumentality (2) in a manner that was calculated or likely to produce death or great bodily harm. *Id.* “Great bodily harm” is defined as “bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.” Minn. Stat. § 609.02, subd. 8 (2016).

Greyeagle does not challenge the first element, that she used “a device or instrumentality.” Minn. Stat. § 609.02, subd. 6. Greyeagle admitted that she drove the SUV in the parking lot. The victim also testified that he saw Greyeagle driving the SUV and that Greyeagle “sped up like she was gonna come hit me with her truck.” Thus, the first element is supported by sufficient evidence.

Greyeagle argues the evidence does not establish the second element—that she used her vehicle in a manner that transformed it into a dangerous weapon—for two reasons, which we discuss in turn.

Vehicle as a dangerous weapon

Greyeagle argues that her conduct did not convert her SUV into a dangerous weapon because she did not “collide with or hit” the victim’s car. Greyeagle correctly states that whether an object is a dangerous weapon “depends on the nature of the object and the manner in which it is used.” *See Basting*, 572 N.W.2d at 285 (stating that determining whether an object is a dangerous weapon depends on “the nature of the object itself, but also the manner in which it was used”). Everyday objects can become dangerous weapons depending on how they are used. *See, e.g., State v. Trott*, 338 N.W.2d 248, 252 (Minn. 1983) (“Some things that are not ordinarily thought of as dangerous weapons become dangerous weapons if so used.”); *State v. Cepeda*, 588 N.W.2d 747, 748-49 (Minn. App. 1999) (determining beer bottle thrown with enough force to break on the victim’s head was a dangerous weapon to sustain second-degree assault conviction).

Greyeagle argues that this court has upheld second-degree assault convictions where a vehicle was used as a dangerous weapon “to ram or hit another car,” but that “[n]o such

conduct happened in this case.” We agree that the state provided no evidence of a collision between Greyeagle’s SUV and the victim’s sedan. But we are not persuaded that this amounts to insufficient evidence for three reasons.

First, Greyeagle relies on *Mell v. Comm’r of Pub. Safety*, 757 N.W.2d 702, 706, 708 (Minn. App. 2008), but *Mell* does not support her position. In *Mell*, this court held that law enforcement had probable cause to arrest appellant for second-degree assault because appellant used his truck to hit another vehicle. 757 N.W.2d at 708-09. *Mell* shows that when a driver uses a vehicle to collide with another vehicle, the facts provide probable cause for second-degree assault. But *Mell* did not require that a driver must collide with another vehicle for the facts to support probable cause.²

Second, existing caselaw does not support Greyeagle’s position that the state had to prove her SUV came into contact with the victim’s sedan. Initially, we note that Greyeagle concedes in her brief to this court that “the evidence shows that [she] engaged in overly-aggressive driving conduct.” Greyeagle next argues that “more than the action of driving towards another person’s car in an aggressive manner . . . is required for the car to be used in a manner likely to cause great bodily harm.” This argument implicitly recognizes that contact may *not* be required to support a conviction of second-degree assault because it acknowledges that evidence of an action that is “more than” “driving towards another” could be sufficient to transform a vehicle into a dangerous weapon.

² Greyeagle also relies on unpublished decisions which are not precedential. *See* Minn. Stat. § 480A.08, subd. 3(b) (2018); *Gen. Cas. Co. of Wis. v. Wozniak Travel, Inc.*, 762 N.W.2d 572, 575 n.2 (Minn. 2009) (stating that “the unpublished Minnesota court of appeals decision does not constitute precedent”).

In support of her argument, Greyeagle relies on *Basting*, 572 N.W.2d at 285, and *Coauette*, 601 N.W.2d at 448. But both cases demonstrate that whether an object is a dangerous weapon depends on the object's nature and the way it was used. *Basting*, 572 N.W.2d at 285; *see also Coauette*, 601 N.W.2d at 447-48. In *Basting*, the supreme court held that "the manner in which Basting used his fist" did not make it a dangerous weapon under the second-degree assault statute. 572 N.W.2d at 285. The supreme court rejected the district court's determination that appellant's fist was a dangerous weapon based solely on evidence of his "formal training and experience as a professional boxer," because "[n]o other circumstances regarding the assault were referred to in the court's factual findings." *Id.* The supreme court concluded that Basting's experience as a professional boxer "alone is not determinative," and thus reversed his conviction. *Id.*

In *Coauette*, this court reasoned that, while a paintball gun was not "inherently" a dangerous weapon, "there would be some basis to treat the paintball gun as a dangerous weapon" if "there had been evidence that appellant intentionally shot the paintball into the victim's face with intent to harm her." 601 N.W.2d at 447-48. Based on our conclusion that the evidence only proved that "[appellant] intended to splash his unsuspecting target with washable paint," we reversed appellant's conviction of second-degree assault. *Id.* at 448.

Basting and *Coauette*, therefore, instruct us to consider the evidence on the nature of the SUV and how Greyeagle used it. Applying *Basting* and *Coauette* to the record evidence, we conclude that there is sufficient evidence to support Greyeagle's conviction. Greyeagle testified that she drove the SUV with "a little speed" around the C-store to where

the victim was driving, and that she followed him. The rooftop video shows Greyeagle drove directly towards the victim's sedan, and he swerved to get out of her way. The victim testified that Greyeagle "almost hit" him. Unlike the evidence in *Basting* and *Coauette*, the record evidence here shows that Greyeagle used her SUV as a dangerous weapon.

Third, Greyeagle has not cited caselaw that *requires* a vehicle or other dangerous weapon to make contact or collide with the victim under the second-degree assault statute. While some contact between the dangerous weapon and the victim is often seen in our caselaw, we are not persuaded that contact is required to support a conviction of second-degree assault where the evidence otherwise shows that the defendant used a device as a dangerous weapon.

Great bodily harm

Greyeagle argues that the evidence is not sufficient to prove that she used her SUV as a dangerous weapon because there was "no evidence as to the nature and severity of any bodily harm [the victim] might have suffered had there been a collision." The state argues that Greyeagle tried to hit the side of the victim's car with the front of her SUV, commonly called a "T-bone" collision, and that it is "common knowledge" that T-bone collisions are "amongst the most dangerous of collisions with serious injuries occurring even at low speeds."

The definition of dangerous weapon requires that the device be "capable of producing" or "calculated or likely to produce" death or great bodily harm. Minn. Stat. § 609.02, subd. 6. Thus, we determine whether it was reasonable for the jury to conclude

that a collision between Greyeagle's SUV and the victim's sedan was "capable of producing" or "likely to produce" death or great bodily harm. *See id.*

In *State v. Weyaus*, we rejected an argument much like Greyeagle's argument. 836 N.W.2d 579, 585-86 (Minn. App. 2013), *review denied* (Minn. Nov. 12, 2013). Weyaus argued that the folding chair he used in an assault was not a dangerous weapon because it was unlikely to produce "great bodily harm" as required by the second-degree assault statute. *Id.* at 586. This court affirmed Weyaus's second-degree assault conviction as supported by sufficient evidence. In doing so, we relied on *Basting*, stating, "[t]he victim need not suffer any bodily harm for a conviction of second-degree assault," and "whether an object is a dangerous weapon does not turn on the nature or severity of the victim's injuries." *Id.* (quotation marks and alterations omitted) (citing *Basting*, 572 N.W.2d at 285 & n.8).

Here, the rooftop video shows that Greyeagle drove her SUV directly towards the victim's sedan. Greyeagle's exact speed is not clear, but Greyeagle testified that she drove around the C-Store "with a little speed." The victim testified that he saw Greyeagle "flying in front" of the C-Store and that she "sped up like she was gonna come hit [him] with her truck." The C-Store employee testified that Greyeagle's SUV appeared to be traveling "over ten [] miles an hour." As Greyeagle's SUV approached the victim's sedan, she slowed down suddenly. The victim testified that he avoided a collision because he "cranked [his] wheel all the way to the left and [he] floored [his] gas." A police sergeant testified that if the two vehicles had not avoided a collision, the SUV would have hit the passenger door of the sedan.

Greyeagle points out in her brief that she testified that she did not intend to hit the victim's sedan, or to scare the victim. But under the sufficiency-of-the-evidence test, we must assume that the jury believed the state's witnesses, and disbelieved evidence to the contrary. The jury heard the testimony and was free to determine each witnesses' credibility and weigh it accordingly. *See State v. Wembley*, 712 N.W.2d 783, 792 (Minn. App. 2006) ("The fundamental rule is that assessment of witness credibility is a jury function." (quotation omitted)), *aff'd on other grounds*, 728 N.W.2d 243 (Minn. 2007). Thus, we assume that the jury rejected Greyeagle's testimony. *See Hohenwald*, 815 N.W.2d at 832 (drawing reasonable inferences in favor of the jury's verdict).

Because section 609.02, subdivision 6, requires the state to prove that the device is "capable of" or "likely to produce" death or great bodily harm, we are not persuaded by Greyeagle's argument that the state failed to prove the nature or severity of the victim's likely injury. Based on the nature of the SUV and how Greyeagle used the SUV, we conclude that the evidence was sufficient to prove that Greyeagle used her SUV as a device or instrumentality that was capable or likely to produce death or great bodily injury. *See Basting*, 572 N.W.2d at 285.

Although a different jury could have considered the evidence and reached a different conclusion, we view the evidence in a light favorable to the verdict. *Hohenwald*, 815 N.W.2d at 832. Applying the sufficiency-of-the-evidence standard to the record evidence, it was reasonable for this jury, while acting with "due regard" for the presumption of innocence and the state's burden of proof, to conclude that Greyeagle used

her SUV in a manner calculated or likely to cause great bodily harm or death. *See Flowers*,
788 N.W.2d at 133.

Affirmed.