STATE OF MINNESOTA
IN COURT OF APPEALS
A19-2077

State of Minnesota,
Respondent,

vs.

Leticia Rene Morales,
Appellant.

Filed December 14, 2020
Affirmed in part, reversed in part, and remanded
Gaïtas, Judge

Kandiyohi County District Court
File No. 34-CR-18-179

Keith Ellison, Attorney General, Edwin W. Stockmeyer, Assistant Attorney General, St. Paul, Minnesota; and

Shane Baker, Kandiyohi County Attorney, Willmar, 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 Connolly, Presiding Judge; Reyes, Judge; and Gaïtas, Judge.

U N P U B L I S H E D O P I N I O N

GAÏTAS, Judge

In this direct appeal from the final judgment of conviction and sentence for pattern of stalking conduct, appellant Leticia Rene Morales argues that her conviction must be

reversed because the state relied on a stalking-by-telephone provision that is facially unconstitutional to prove the pattern of stalking conduct. She also argues that the evidence is insufficient to prove beyond a reasonable doubt that she is guilty of two counts of threats of violence. We affirm the pattern-of-stalking conviction and conclude that sufficient evidence supports the guilty verdicts for threats of violence, but we reverse and remand for the district court to set aside the three unadjudicated verdicts for stalking by telephone and to dismiss the underlying stalking-by-telephone charges.

FACTS

Morales had a brief romantic relationship with R.M.C. After the relationship ended, R.M.C. obtained an order for protection (OFP) that prohibited Morales from contacting him in person, by phone, or by social media. A deputy sheriff served the OFP on Morales on December 28, 2017.

In the months that followed, Morales repeatedly called R.M.C., sent him text messages, and came to the auto shop owned by R.M.C.'s brother where R.M.C. worked as a mechanic. Morales's conduct at the auto shop, which included damaging vehicles, drove customers away at times and, on at least one occasion, caused R.M.C.'s brother to close the shop. Morales's actions took such a toll on R.M.C. that he considered moving away or asking his brother to sell the business. On four separate occasions, R.M.C. reported Morales's contacts with him to law enforcement. Those reports led to the charges in this case.

On February 14, 2018, Morales came to the auto shop and began yelling and kicking and pulling on the locked front door while R.M.C. was inside. R.M.C. called the police.

When the responding officer arrived, R.M.C. showed the officer a video of the incident that he recorded on his cellphone. In the video, Morales screams and repeatedly demands that R.M.C. "open the f-----g door." While R.M.C. was speaking with the officer, R.M.C.'s phone rang. The contact information indicated that it was Morales calling, and the officer answered the phone with a "hello." The officer heard what sounded like two female voices, but the caller hung up without replying.

R.M.C. also showed the responding officer a series of several hundred text messages that Morales had sent him over the past few weeks. The text messages from Morales included many statements expressing both love and hatred for R.M.C. Morales stated that she knew R.M.C. was dating someone new, and her messages on that topic included an offer to "let" R.M.C. have relations with the other woman if Morales could be present. She also told R.M.C. multiple times that she would make him "pay" for what he had done, stating that she would ruin his life and did not care if she went to prison. R.M.C. also reported that, the day before the February 14 incident at the shop, Morales told him during a phone call that she was going to kill him and his new girlfriend.

On March 8, 2018, Morales again came to the auto shop and attempted to enter. When R.M.C. told her that he was going to call the police, she got in her vehicle and began to drive away. R.M.C. followed her outside and took pictures on his cell phone to document that she had been there, but as he was doing so, Morales circled the block, turned back into the parking lot, and drove her car directly toward him. R.M.C. jumped out of the way to avoid being struck. When a police officer arrived, R.M.C. showed the officer the

photos on his phone and also showed the officer a text message he received the day after the February 14 incident in which Morales again threatened to kill him.

A few weeks later, R.M.C. reported to police that Morales had called him 20 to 30 times within the past day. R.M.C. also reported that Morales drove past him when he left the auto shop earlier that day. He pulled over, intending to tell Morales to stop calling him. Morales turned around, drove towards R.M.C., bumped the front of his car with her car, and drove away. The officer took pictures of R.M.C.'s car, which had minor front-end damage, and R.M.C. later sent the officer screenshots showing Morales's multiple calls.

About five months later, in August 2018, R.M.C. informed law enforcement that Morales had sent him more text messages, including photographs of herself. R.M.C. told the responding officer that Morales had been sending him messages for the past month and showed an officer the messages.

The state initially charged Morales with several offenses following the February 14 incident. After the additional incidents, the state amended the complaint to charge a total of twelve counts: one count of pattern of stalking, Minn. Stat. § 609.749, subd. 5(a) (2016); two counts of threats of violence, Minn. Stat. § 609.713, subd. 1 (2016); four counts of stalking by telephone, Minn. Stat. § 609.749, subd. 2(4) (2016); four counts of violating an order for protection, Minn. Stat. § 518B.01, subd. 14(b) (2016); and one count of failing to stop for a collision, Minn. Stat. § 169.09, subd. 2 (2016). The case proceeded to a jury trial. After the close of evidence, the state dismissed one of the stalking-by-telephone counts. The jury found Morales guilty of all remaining counts except for the charge of failure to stop after a collision.

At sentencing, the district court adjudicated Morales guilty of the pattern-of-stalking offense and left the other nine counts unadjudicated. The district court sentenced Morales to 18 months' imprisonment, stayed execution of the prison sentence, and placed her on probation for five years.

This appeal follows.

D E C I S I O N

The foundation for Morales's appeal is a claim that she was convicted of multiple counts of stalking by telephone under an unconstitutional statute. Morales argues that the state then relied on the unconstitutional stalking-by-telephone offenses to form the pattern for the separate offense of pattern of stalking conduct. Because the pattern conviction is premised on violations of an unconstitutional statute, Morales claims that this conviction is also improper. Finally, Morales attacks the sufficiency of the evidence underlying the jury's guilty verdicts for threats of violence—offenses that also may comprise the pattern of stalking conduct.

We first consider Morales's foundational argument that she was improperly convicted under an unconstitutional statute. Then, we address her claims regarding the pattern offense and threats-of-violence offenses.

I. The district court must set aside the three jury verdicts finding Morales guilty of stalking by telephone.

Morales seeks reversal of her three "convictions" for violations of Minnesota Statutes section 609.749, subdivision 2(4)—the stalking-by-telephone statute—because this court held in *State v. Peterson* that this particular statutory provision is facially

unconstitutional. 936 N.W.2d 912 (Minn. App. 2019), *review denied* (Minn. Feb. 26, 2020). Morales was not convicted of the stalking-by-telephone offenses, though; the district court did not enter convictions or sentences for those guilty verdicts, which the warrant of commitment accurately reflects. We accordingly construe her request as one to reverse the jury's three guilty verdicts for stalking by telephone.

The state agrees that under *Peterson*, section 609.749, subdivision 2(4), is facially unconstitutional and Morales cannot be convicted of the stalking-by-telephone charges in this case. Thus, the state also agrees that the three unadjudicated guilty verdicts for these offenses should be reversed.

Under the stalking-by-telephone statute, a person who "stalks another" by "repeatedly mak[ing] telephone calls, send[ing] text messages, or induc[ing] a victim to make telephone calls to the actor, whether or not conversation ensues" is guilty of a gross misdemeanor. Minn. Stat. § 609.749, subd. 2(4). "Stalking" is defined in section 609.749, subdivision 1, as "engag[ing] in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim." In *Peterson*, we held that the stalking-by-telephone provision prohibits a substantial amount of constitutionally protected speech and is therefore facially overbroad. 936 N.W.2d at 920-21. We also held that the statute is not susceptible to a judicial remedy and is thus invalid. *Id.* at 921-22.

"When a statute is unconstitutional, it is not a law and it is as inoperative as if it had never been enacted." *Fedziuk v. Comm'r of Pub. Safety*, 696 N.W.2d 340, 349 (Minn.

2005). Accordingly, Morales should not have been charged with and cannot be convicted of stalking by telephone. We remand to the district court to set aside the jury's three guilty verdicts for stalking by telephone, dismiss those particular charges, and correct the warrant of commitment.[1] *See State v. Schmidt*, 612 N.W.2d 871, 874, 877 (Minn. 2000).

II. Morales is not entitled to a new trial for the pattern-of-stalking conviction.

Morales next argues that her conviction for pattern of stalking conduct in violation of Minnesota Statutes section 609.749, subdivision 5(a), should be reversed and the case remanded for a new trial because the state relied on the unconstitutional stalking-by-telephone offenses to prove that she engaged in a pattern of stalking.

Standard of Review

To apply the appropriate standard of review, we must first delineate the type of error alleged. Morales argues that a constitutional error occurred and that we should reverse her conviction unless the state can show that the error was harmless beyond a reasonable doubt. *See State v. McAllister*, 862 N.W.2d 49, 59 (Minn. 2015). She explicitly rejects the state's attempt to characterize the alleged error as either a challenge to the jury instructions or a

[1] A defendant may not appeal from an unadjudicated guilty verdict because it is not a final judgment. *See* Minn. R. Crim. P. 28.02, subd. 2; *see also State v. Parnell*, 905 N.W.2d 895, 897 (Minn. App. 2017) ("A defendant may not appeal a guilty verdict until the district court formally enters or records a judgment of conviction."). Morales challenges the unadjudicated guilty verdicts in connection with her appeal from the judgment of conviction for the pattern-of-stalking offense. On appeal from a judgment of conviction, we "may review any order or ruling of the district court or any other matter, as the interests of justice may require." Minn. R. Crim. P. 28.02, subd. 11. Because the parties agree that the district court's warrant of commitment order should be corrected, and the unadjudicated verdicts were based on a facially unconstitutional statute, we have elected to review Morales's challenge to the verdicts in the interests of justice.

challenge to the constitutionality of a pattern-of-stalking conviction that is based on a pattern of stalking by telephone.[2] Instead, she argues that because the stalking-by-telephone offenses are invalid, it was a constitutional error for the prosecutor to present those offenses to the jury throughout the trial as both independent crimes and as potential predicate crimes for a pattern of stalking.

Because the stalking-by-telephone statutory provision is facially unconstitutional and not subject to judicial remedy, it is "inoperative as if it had never been enacted." *Fedziuk*, 696 N.W.2d at 349. We accordingly agree that an error occurred when stalking-by-telephone was presented as a criminal offense at trial—both as an independent offense and as a predicate offense for the pattern-of-stalking charge. But to be entitled to relief, appellants must generally prove not only that an error occurred, but also that they were prejudiced by the error.[3] *See State v. Davis*, 820 N.W.2d 525, 533 (Minn. 2012).

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[2] Even though Morales does not argue that the pattern-of-stalking statute is unconstitutional if the predicate offenses are stalking-by-telephone offenses, we note that the pattern offense, section 609.749, subdivision 5(a), requires the state to prove a different mens rea element than the unconstitutional stalking-by-telephone section. To prove stalking by telephone, the state must show that the actor engaged in conduct that the actor knew or had reason to know "would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated." Minn. Stat. § 609.749, subd. 2(4). By contrast, to prove a pattern of stalking the state must show that the actor engaged in conduct that the actor knew or had reason to know "would cause the victim under the circumstances to feel terrorized or to fear bodily harm." *Id.*, subd. 5(a). The pattern statute seemingly does not prohibit the same breadth of expressive communication as the stalking-by-telephone provision. We do not resolve that issue here though, as Morales does not raise it.

[3] In her briefing, Morales describes the error, at one point, as "one of fairness of the trial." We note that this initially sounds like an argument that a structural error occurred. Structural errors are "defects in the constitution of the trial mechanism, which defy analysis by 'harmless-error' standards because the entire conduct of the trial from beginning to end

Depending on the type of error alleged, we apply one of two different harmless-error tests to determine whether a defendant was prejudiced. *See State v. Sanders*, 775 N.W.2d 883, 887 (Minn. 2009). When an error does not implicate a constitutional right, appellate courts do not award a new trial unless "the error substantially influenced the jury's verdict." *Id.* When an error does implicate a constitutional right, appellate courts "will award a new trial unless the error is harmless beyond a reasonable doubt." *Davis*, 820 N.W.2d at 533.[4] We need not determine whether the error here was constitutional in

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is obviously affected." *State v. Dalbec*, 800 N.W.2d 624, 627 (Minn. 2011) (quotation omitted). Courts have found structural error in "a very limited class of cases," *Johnson v. United States*, 520 U.S. 461, 468, 117 S. Ct. 1544, 1549 (1997), and such errors require automatic reversal of a conviction without consideration of prejudice. *See State v. Kuhlmann*, 806 N.W.2d 844, 851 (Minn. 2011). Morales does not argue that her conviction should be automatically reversed, though; she argues that the harmless-beyond-a-reasonable-doubt standard for assessing prejudice applies. Because it appears to us that we can "quantitatively assess[]" the error that Morales asserts "in the context of the other evidence presented in order to determine whether it was harmless," *Colbert v. State*, 870 N.W.2d 616, 624 (Minn. 2015) (quotation omitted), and because Morales presents no argument to the contrary, we decline to apply structural-error review here.

[4] Additionally, when an issue is not raised in the district court, the issue is forfeited, and appellate courts ordinarily review a forfeited issue for plain error. *See, e.g.*, *State v. Vasquez*, 912 N.W.2d 642, 649-50 (Minn. 2018). The state contends that we should apply plain-error review here because Morales did not specifically object to the district court's jury instruction on pattern of stalking conduct. But Morales filed an omnibus motion to dismiss the counts of stalking by telephone, along with the pattern-of-stalking count, on the basis that section 609.749 is overbroad and thus unconstitutional. The district court denied her motion in its entirety, as *Peterson*, 936 N.W.2d 912, had not yet been decided. While Morales did not again raise a challenge to the stalking counts at trial, her argument on appeal is essentially that those counts should not have been charged and included at trial, which is the same challenge she raised at the appropriate time in her the omnibus motion. We conclude that she did not forfeit the issue on appeal by failing to raise it in the district court.

dimension because even under the higher standard for constitutional errors, Morales's claim fails.

Application

To show that the error was harmless beyond a reasonable doubt, the state must demonstrate that "the jury's verdict was surely unattributable to the error." *Sanders*, 775 N.W.2d at 887. In examining whether the verdict was surely unattributable to the error, an appellate court looks to the record as a whole to discern the actual effect of the error on the guilty verdict. *McAllister*, 862 N.W.2d at 59. "Overwhelming evidence of guilt is a factor, often a very important one, when determining whether an error was harmless beyond a reasonable doubt." *Id.* (quotation omitted). But the appellate court cannot focus solely on evidence of guilt. *State v. Al-Naseer*, 690 N.W.2d 744, 748 (Minn. 2005). The court also considers "the manner in which the evidence was presented, whether it was highly persuasive, whether it was used in closing argument, and whether it was effectively countered by the defendant." *Id.*

Under section 609.749, subdivision 5(a), "A person who engages in a pattern of stalking conduct with respect to a single victim . . . which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony." Subdivision 5(b) defines a "pattern of stalking conduct" as "two or more acts within a five-year period that violate or attempt to violate" certain statutes. Minn. Stat. § 609.749, subd. 5(b) (2016). The enumerated statutes that can form a pattern of stalking include the

statutes that criminalize threats of violence, violations of an order for protection, and stalking by telephone. *Id.*

The state argues that including the stalking-by-telephone counts was harmless beyond a reasonable doubt because the evidence that Morales is guilty of a pattern of stalking was overwhelming. Morales was not only charged with and found guilty of three counts of stalking by telephone, but was also charged with and found guilty of two counts of threats of violence and four counts of violating an OFP. The threats-of-violence and OFP violations also qualify as predicate offenses that may serve as the basis for a pattern-of-stalking conviction. *See* Minn. Stat. § 609.749, subd. 5(b)(3), (6) (incorporating threats of violence under Minn. Stat. § 609.713 (2016) and OFP violations under Minn. Stat. § 518B.01, subd. 14 (2016)). The state argues that because the jury found Morales guilty of six additional qualifying predicate offenses—above and beyond the three stalking-by-telephone offenses—it is unreasonable to believe the jury found a pattern of stalking based exclusively on the stalking-by-telephone offenses.

A review of the record satisfies us that the jury's verdict was surely unattributable to any error in submitting the stalking-by-telephone counts to the jury at trial. *See Sanders*, 775 N.W.2d at 887-88 (finding jury verdict was unattributable to the alleged error). The jury found beyond a reasonable doubt that Morales committed nine offenses that can constitute a pattern of stalking conduct, and a pattern requires proof of only two such

offenses. Minn. Stat. § 609.749, subd. 5(b). The threats of violence and OFP violations were more than sufficient to establish a pattern of stalking.[5]

Moreover, the state did not emphasize the stalking-by-telephone offenses in arguing that Morales had engaged in a pattern of stalking. During closing arguments, the prosecutor informed the jury that, in order to prove pattern of stalking, the state had to "show that there were at least two [predicate] crimes and [it was] attempting to do that with the threats of violence, stalking, and the [OFP] violations." The prosecutor also advised the jurors that they did not need to find all of the violations proved, but only two of them. In discussing how the state had proved the element of causing the victim to "feel terrorized or to fear bodily harm," the prosecutor described how R.M.C. must have felt when Morales pounded on the door of the auto shop screaming to be let in and when Morales nearly ran R.M.C. over with her car. The prosecutor highlighted that Morales's behavior led R.M.C. to call law enforcement and to consider asking his brother to sell the shop. This evidence

[5] Although unpublished decisions of this court are not precedential, *Dynamic Air, Inc. v. Bloch*, 502 N.W.2d 796, 801 (Minn. App. 1993), we nonetheless note that our decision here is distinguishable from *State v. Vosburg*, No. A19-0878, 2020 WL 1846451 (Minn. App. Apr. 13, 2020). In *Vosburg*, the defendant pleaded guilty to a pattern of stalking conduct under section 609.749, subdivision 5(a). 2020 WL 1846451, at *1. To show that he had committed two offenses that violate section 609.749, Vosburg testified during his plea that he committed two instances of stalking by telephone in violation of section 609.749, subdivision 1. *Id.* Following the *Peterson* decision, we held that Vosburg's plea was inaccurate, and thus invalid, because it lacked a sufficient factual basis, as he had "testified to two instances of conduct that are no longer criminalized." *Id.* at *3. Here, unlike in *Vosburg*, the pattern-of-conduct element of Morales's pattern-of-stalking conviction is not only supported by two non-criminal acts, but is also supported by six additional offenses that violate section 609.749. The issue of an inadequate factual basis is not present here.

involved Morales's in-person contact with R.M.C. Indeed, the prosecutor made no mention of Morales's text messages in discussing the pattern-of-stalking charge during closing argument.

Additionally, we note that Morales does not argue that the text messages themselves were inadmissible as evidence. Morales instead argues that her text messages to R.M.C. played such a significant role at trial that the jury's verdict on the pattern offense must have relied on them. But the state was not prohibited from describing Morales's behavior that gave rise to a pattern of stalking, which included the text messages. And, as noted, the state did not emphasize the text messages in arguing that it had proved the pattern-of-stalking elements. We conclude that any error in allowing the jury to consider the stalking-by-telephone offenses as predicate offenses for a pattern of stalking was harmless beyond a reasonable doubt.

III. The evidence is sufficient to prove that Morales is guilty of two counts of threats of violence.

Morales also argues that the evidence is insufficient to prove beyond a reasonable doubt that she made two threats of violence. As an initial matter, Morales again characterizes the guilty verdicts as "convictions." But the district court never adjudicated and sentenced Morales for the threats-of-violence offenses. In *State v. Ashland*, the supreme court declined to address a sufficiency-of-the-evidence challenge to guilty verdicts that were neither adjudicated nor sentenced. 287 N.W.2d 649, 650 (Minn. 1979). Here, though, the threats of violence may have been part of the pattern-of-stalking

conviction; the jury could have found that they constituted the pattern of stalking conduct. We will thus briefly address the sufficiency of the evidence to support the guilty verdicts.

When an appellant challenges the sufficiency of the evidence to sustain a conviction, appellate courts analyze 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. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). To do so, we assume that the jury believed the state's witnesses and disbelieved any contrary evidence. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989).

When an element of an offense is proved entirely by circumstantial evidence, appellate courts review the sufficiency of that evidence using a two-part standard. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). First, we identify the circumstances that the state proved. *Id.* This requires that we "winnow down" the evidence by "resolving all questions of fact in favor of the jury's verdict" and disregarding any evidence inconsistent with the verdict. *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017). Second, we determine "whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt." *State v. Bahtuoh*, 840 N.W.2d 804, 810 (Minn. 2013).

Morales's challenge to the threats-of-violence verdicts implicates the state's proof of her intent in making the threatening statements. Intent is a "subjective state of mind" that usually can only be established by "reasonable inference[s] from surrounding circumstances." *State v. Schweppe*, 237 N.W.2d 609, 614 (Minn. 1975). The parties agree

that the circumstantial-evidence standard of review applies here. We accordingly begin the analysis by delineating the circumstances that the state proved.

Assuming that the jury credited the testimony of the state's witnesses, and construing the evidence in the light most favorable to the verdict, *see State v. Hawes*, 801 N.W.2d 659, 668 (Minn. 2011), the circumstances proved are as follows.

After Morales and R.M.C. ended their dating relationship, R.M.C. obtained an OFP prohibiting Morales from contacting him. Morales repeatedly violated the OFP by contacting R.M.C. by phone and in person. Morales's contacts with R.M.C. at his place of business drove customers away and, on at least one occasion, caused R.M.C. and his brother to close the shop. R.M.C. contemplated asking his brother to sell the business and considered moving out of town.

Text messages from Morales to R.M.C. show that Morales was having a difficult time regulating her emotions in regards to the break up. She sent many messages expressing anger, sadness, frustration, and love and hatred for R.M.C. Her messages indicate that she was particularly upset that R.M.C. was seeing another woman. Morales told R.M.C. that she would make him "pay," and that she did not care if she went to prison. She told him over the phone on February 13, 2018, that she was going to kill him. The next day, on February 14, Morales went to the auto shop, screamed and demanded to be let in, and tried to pull and kick open the locked front door. After she left, she called R.M.C. and a police officer answered. The next day, Morales told R.M.C. over text message that she was going to kill him. And on March 8, Morales returned to the auto shop and tried to hit R.M.C. with her car.

Having identified the circumstances proved, we next determine whether, when viewed as whole, they permit a reasonable inference of guilt and are inconsistent with any rational hypothesis other than guilt. *Bahtuoh*, 840 N.W.2d at 810. A person is guilty of threats of violence under Minnesota Statutes section 609.713, subdivision 1, if he or she "threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another . . . or in a reckless disregard of the risk of causing such terror." A statement is a threat if the statement would, in its context, "have a reasonable tendency to create apprehension that its originator will act according to its tenor." *Schweppe*, 237 N.W.2d at 613 (quotations omitted). "Terrorize," in this context, means "to cause extreme fear by use of violence or threats." *Id.* at 614. The statute is not meant "to authorize grave sanctions against the kind of verbal threat which expresses *transitory anger* which lacks the intent to terrorize." *State v. Jones*, 451 N.W.2d 55, 63 (Minn. App. 1990) (quotation omitted), *review denied* (Minn. Feb. 21, 1990). In determining whether a person's communications recklessly disregarded the risk of causing terror, the victim's actual reactions are a relevant factor. *Id.*

Morales concedes that the circumstances proved are consistent with guilt. The record supports this concession, as the circumstances proved are consistent with a reasonable hypothesis that she threatened to commit a crime of violence against R.M.C. on two occasions by saying she was going to kill him, and that she did so with a reckless disregard of the risk of causing terror to R.M.C. Morales contends, however, that the circumstances proved are consistent with another rational hypothesis: that her statements that she was going to kill R.M.C. were "merely expressions of transitory anger." She

argues that, considered in the context of all the text messages she sent, those statements "are that of a lovelorn, brokenhearted woman who was desperate to have the man she still loved acknowledge her existence, even for a fleeting moment."

We do not agree that Morales's statements about killing R.M.C., in the context of all the evidence, support a rational hypothesis that she merely expressed transitory anger. Morales repeatedly contacted R.M.C. for over nine months, and she did so at a time when she knew that an OFP forbid her from doing so. She expressed to R.M.C. that he would "pay" and that she did not care if she went to prison. Her contact was not limited to text messages and phone calls. She followed her threats of violence with visits to R.M.C.'s place of business, where she attempted to break through a locked door and shouted to be let in. Her conduct was so concerning to R.M.C. that he called the police multiple times, documented Morales's visits with video and photos, and considered moving away and asking his brother to sell the business. Ultimately, the only reasonable inference from the circumstances proved is that Morales made threatening statements with a reckless disregard of a known, substantial risk that the statements would terrorize R.M.C. We accordingly conclude that the evidence is sufficient to support the jury's guilty verdicts for threats of violence.

Affirmed in part, reversed in part, and remanded.