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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-0325**

State of Minnesota,  
Respondent,

vs.

Corey Michael Anderson,  
Appellant.

**Filed December 27, 2021  
Affirmed in part, reversed in part, and remanded  
Connolly, Judge**

Ramsey County District Court  
File No. 62-CR-20-349

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

John Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Connolly, Judge; and Cochran, Judge.

**NONPRECEDENTIAL OPINION**

**CONNOLLY**, Judge

On appeal from his convictions of felony domestic assault and threats of violence, appellant argues that (1) the evidence was insufficient to support his conviction of domestic assault, and (2) the district court erred by requiring him to register as a predatory offender.

We affirm appellant's convictions, but reverse and remand for resentencing because appellant was erroneously required to register as a predatory offender.

## **FACTS**

By a second amended complaint, respondent State of Minnesota charged appellant Corey Anderson with fourth-degree criminal sexual conduct, felony domestic assault-harm, domestic assault by strangulation, and threats of violence. At trial, evidence was presented that Anderson lived in St. Paul with his girlfriend, A.R., and their two young children. S.S., A.R.'s 17-year-old daughter from a previous relationship, also lived with the couple. S.S. testified that she routinely helps care for her two younger siblings and sometimes sleeps with her one-year-old brother on a couch on the main level.

On the evening of December 26, 2019, S.S. attempted to go to sleep with her little brother on the couch, but the baby was fussy, so A.R. took him into her room. Shortly thereafter, Anderson came back with the baby. Although the baby was still fussing, S.S. fell asleep while Anderson cared for the baby.

S.S. claimed that she was awakened by Anderson grabbing her "butt cheek." According to S.S., Anderson apologized and then went back in the bedroom. S.S. observed the baby asleep "in his usual sleeping spot," and then used her cellular phone to call her mother and tell her what happened.

A.R. testified that when Anderson returned to the bedroom, he told her that he "accidentally grabbed" S.S.'s leg. After speaking with S.S., A.R. told Anderson that she did not believe his version of the events and the couple began to argue. According to A.R., Anderson grabbed her by the throat with both hands and choked her. A.R. then hit

Anderson with a dish, prompting him to release her. A.R. claimed that Anderson told her that he was going to kill her and then pushed her down the basement stairs. Although A.R. caught herself on the banister, she scraped her back in the process.

After Anderson fled the house, A.R. called 911. The police subsequently arrived at the scene and spoke to both A.R. and S.S. One of the responding officers testified that he observed red marks on A.R.'s neck and ear. And an officer who conducted a follow-up interview with A.R. testified that he was told by A.R. that she injured her toe during the altercation, but he could not recall if she mentioned injuring her back.

The jury saw photographs of the injuries to A.R.'s neck and back and heard a recording of a forensic interview in which S.S. described the altercation between her mother and Anderson. The jury also saw clips from a responding officer's body camera in which A.R. stated that Anderson grabbed her throat and knocked her down the steps. And the district court admitted relationship evidence related to incidents in which Anderson (1) threatened to kill A.R. in April 2019; (2) rolled up a car window on A.R.'s arm in March 2019; and (3) hit A.R. and threw her against a wall in November 2018.

Anderson stipulated that he had two prior domestic-related offenses, which supported the felony level domestic-abuse charge. But he did not testify or call any witnesses.

The jury acquitted Anderson of fourth-degree criminal sexual conduct and domestic assault by strangulation, but found him guilty of felony domestic assault-harm and threats of violence. The district court then sentenced Anderson to 18 months in prison, but stayed execution of that sentence and placed him on probation for three years. The district court

also ordered Anderson to register as a predatory offender for ten years. This appeal follows.

## DECISION

### I.

Anderson challenges the sufficiency of the evidence supporting his conviction of felony domestic assault-harm. When evaluating a sufficiency-of-the-evidence claim, the reviewing court “carefully examine[s] the record to determine whether the facts and the legitimate inferences drawn from them would permit the [jury] to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Waiters*, 929 N.W.2d 895, 900 (Minn. 2019) (quotation omitted). We view the evidence “in the light most favorable to the conviction, . . . [and] assume the jury believed the [s]tate’s witnesses and disbelieved any evidence to the contrary.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation and citation omitted).

Direct evidence is evidence that, if believed, directly proves the existence of a fact without requiring any inferences by the factfinder. *See State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (stating that “direct evidence . . . allows the jury to find the defendant guilty without having to draw any inferences”). Circumstantial evidence, on the other hand, is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist” and “always requires an inferential step to prove a fact that is not required with direct evidence.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted).

When analyzing a claim under the circumstantial evidence standard, this court applies a two-step standard of review. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn.

2013). First, we identify the circumstances proved. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). In doing so, “we construe conflicting evidence in the light most favorable to the verdict and assume that the jury believed the [s]tate’s witnesses and disbelieved the defense witnesses.” *Id.* (quotation omitted). Second, we “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotation omitted). We independently examine “the reasonableness of [the] inferences that might be drawn from the circumstances proved” and “give no deference to the fact finder’s choice between reasonable inferences.” *Id.* (quotation omitted).

Anderson was found guilty of felony domestic assault-harm under Minn. Stat. § 609.2242 (2018). That statute provides that whoever “intentionally inflicts or attempts to inflict bodily harm upon” a family or household member is guilty of assault. Minn. Stat. § 609.2242, subd. 1(2). The offense is enhanced to a felony if the individual “violates the provisions of this section . . . within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions.” *Id.*, subd. 4.

Anderson argues that the evidence is insufficient to sustain his conviction because the state failed to prove that he acted with the required mens rea. “[T]he mens rea element of assault-harm, ‘intentional,’ requires only the general intent to do the act that results in bodily harm.” *State v. Dorn*, 887 N.W.2d 826, 831 (Minn. 2016) (citing *State v. Fleck*, 810 N.W.2d 303, 309 (Minn. 2012) (holding that assault-harm is a general-intent crime)). “[I]n proving the mens rea element of general-intent crimes, the [s]tate need not show that the defendant meant to or knew that she would violate the law or cause a particular result.”

*Id.* (quotation omitted). “Generally, intent is proven circumstantially by drawing inferences from the defendant’s words and actions in light of the totality of the circumstances.” *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997).

Anderson contends that because intent is proven circumstantially, the circumstantial-evidence standard of review is applicable. He also contends that because the jury acquitted him of the domestic-assault-by-strangulation offense, “evidence presented by the [s]tate about the strangulation conduct is inconsistent with the verdict and [cannot] be considered.” Assuming, without deciding, that these arguments have merit, we conclude that, even without consideration of the strangulation evidence, there was sufficient evidence to support the jury’s verdict.

At trial, the state proved the following circumstances: (1) Anderson and A.R. were in a romantic relationship and lived together in St. Paul; (2) on or about December 26, 2019, the couple got into an argument; (3) the argument became physical and Anderson told A.R. that he was going to kill her; (4) Anderson pushed A.R. down the basement stairs, causing A.R. to scrape her back; (5) after pushing A.R. down the stairs, Anderson left the scene; and (6) Anderson had engaged in abusive conduct towards A.R. on three prior occasions.

Anderson argues that the “circumstances proved do not exclude a rational hypothesis that the contact between Anderson and A.R. at the stairs was accidental or unintentional contact as Anderson was trying to leave the apartment.” To support his claim, Anderson relies on two statements recorded on the responding officer’s body camera. In one statement, A.R. told the officer that Anderson pulled her into the kitchen

and knocked her down the steps and “that’s how he was able to get out the door.” In another statement, A.R. told the officer that she and Anderson were “tussling” in the kitchen and then he pushed her down the steps and left. And Anderson points out that A.R. never told the responding officer that her back was injured as a result of being pushed down the stairs. Thus, Anderson argues that the “evidence as to the pushing and how it facilitated his exit from the house, combined with [his] prompt 911 call and cooperation with police, support[s] a reasonable inference that any physical contact with A.R. at the stairs was not intended to be a battery.”

Anderson’s argument is unpersuasive. It is well settled that this court will not overturn a conviction based on mere speculation. *State v. Andersen*, 784 N.W.2d 320, 330 (Minn. 2010) (quotation omitted). Here, the proposition that A.R. fell down the stairs as a result of accidental contact with Anderson is conjecture based on no evidence. Instead, the evidence shows that Anderson threatened to kill A.R. and then pushed her down the basement stairs, causing an injury to her back. And evidence of Anderson’s prior abusive behavior towards A.R. provided additional proof that Anderson intended to push A.R. down the stairs. Therefore, the evidence presented at trial was sufficient to sustain Anderson’s conviction of domestic assault-harm.

## **II.**

Anderson argues that the district court erred by requiring him to register as a predatory offender. Contrary to its position before the district court, the state now agrees with Anderson. The state requests reversal of the registration requirement.

Whether a defendant's conduct requires predatory offender registration is a question of law reviewed de novo. *See State v. Lopez*, 778 N.W.2d 700, 705 (Minn. 2010) (reviewing de novo the application of Minn. Stat. § 243.166 to undisputed facts). Even when parties agree that the district court erred, appellate courts independently review the legal issue. *State v. Hannuksela*, 452 N.W.2d 668, 673-74 n.7 (Minn. 1990).

Minnesota Statutes sections 243.166 and .167 (2018) govern predatory offender registration. Section 243.166, subdivision 1b, provides an enumerated list of circumstances requiring registration. Minn. Stat. § 243.166, subd. 1b. An individual is required to register as a predatory offender when the person was charged with one or more enumerated offenses and “convicted of . . . that offense or another offense arising out of the same set of circumstances.” *Id.*, subd. 1b(a)(1). Anderson's charged offense of fourth-degree criminal sexual conduct is an enumerated offense requiring registration. *Id.*, subd. 1b(a)(1)(iii). Domestic assault-harm and threats of violence are not offenses requiring registration. *See id.*, subd. 1b.

Anderson argues that the district court erred by requiring him to register as a predatory offender because neither the domestic-assault offense, nor the threats-of-violence offense, arose out of the same set of circumstances as the fourth-degree criminal-sexual-conduct charge that resulted in an acquittal. We agree. In *Lopez*, the supreme court rejected arguments that predatory-registration is required when the convicted offense and the charged offense arise out of “related circumstances” or where the two share a “single related circumstance.” 778 N.W.2d at 706. Instead, the supreme court held that the “same set of circumstances” phrase contained in section 243.166, subdivision 1b, means that a



person must register as a predatory offender when the “same general group of facts” gave rise to both the convicted offense and the charged offense. *Id.* The circumstances need not be identical in all respects, but there must be sufficient “overlap with regard to time, location, persons involved, *and* basic facts.” *Id.* (emphasis added); *see also State v. Berry*, 959 N.W.2d 184, 188 (Minn. 2021) (restating that the “test of time, location, persons involved, and basic facts is the correct framework, and a district court’s consideration of whether predatory registration is required must include at least these factors”).

Here, both the alleged sexual assault of S.S. and the offense of domestic abuse-harm against A.R. occurred at the same location. And there is some overlap in the same basic facts because the argument between A.R. and Anderson that resulted in the domestic assault was precipitated by Anderson’s alleged sexual contact with S.S. But the offenses involved separate victims—S.S. was the alleged victim of the alleged sexual assault, and A.R. was the victim of the domestic abuse. Moreover, the offenses were separated by time. The record reflects that the alleged sexual contact was brief and occurred before Anderson assaulted A.R. And although the argument between Anderson and A.R. was precipitated by the alleged sexual assault, there is no further overlap in the basic facts. Finally, the state agrees that the two offenses did not arise from the same general group of facts. Accordingly, we reverse the district court’s imposition of the predatory-offender-registration requirement and remand the case for resentencing.

**Affirmed in part, reversed in part, and remanded.**