STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1288

State of Minnesota,
Respondent,

vs.

Raphael Ulisses Gurneau,
Appellant.

Filed June 27, 2022
Affirmed
Frisch, Judge

Cass County District Court
File No. 11-CR-20-1718

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

Benjamin T. Lindstrom, Cass County Attorney, Chelsea M. Langton, Assistant County Attorney, Walker, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Mark D. Nyvold, Special Assistant Public Defender, Fridley, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Slieter, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

In this direct appeal from the judgment of convictions for being a felon in possession of a firearm and second-degree assault, appellant argues that the warrantless reentry of

police into a bedroom of a residence constituted an unlawful search and that the circumstantial evidence did not prove beyond a reasonable doubt that appellant intended to cause the police officer to fear immediate harm or death. Appellant also argues that his conviction for obstructing legal process must be vacated. We affirm.

FACTS

In October 2020, Leech Lake Police Officers Ayshford and Hulsebus responded to reports of a domestic disturbance at a residence. The homeowner met Officer Ayshford at the front door of the residence and directed him toward the bedroom where the disturbance was taking place. The bedroom door was locked, so Officer Ayshford knocked and announced police presence. When the door opened, Officer Ayshford observed appellant Raphael Ulisses Gurneau "pointing a firearm at [him]."

Officer Ayshford drew his weapon and stepped to the side, instructing Gurneau to drop the firearm. Gurneau replied, "No" and walked out of Officer Ayshford's line of view before returning seconds later without the firearm. Officer Ayshford directed Gurneau to lie down on the floor. Gurneau did not comply, and Officer Ayshford physically escorted him to the ground. At that time, Officer Hulsebus entered the bedroom and helped secure Gurneau in handcuffs. With Gurneau secured, Officer Ayshford tried to locate the firearm but failed to locate it before needing to assist Officer Hulsebus in escorting Gurneau outside and into a squad car. Gurneau physically resisted the officers while they took him to the vehicle. Once the officers placed Gurneau inside the vehicle, Officer Ayshford returned to the bedroom to locate and secure the firearm, which he found hidden behind a television.

Based on these events, respondent State of Minnesota charged Gurneau with three crimes: (1) unlawful possession of a firearm in violation of Minn. Stat. § 624.713, subd. 1(2) (2020); (2) second-degree assault in violation of Minn. Stat. § 609.222, subd. 1 (2020); and (3) obstructing the legal process in violation of Minn. Stat. § 609.50, subd. 1(2) (2020).[1]

Gurneau moved to suppress the evidence and dismiss the unlawful-possession-of-a-firearm charge, arguing that Officer Ayshford's warrantless reentry into the bedroom was unconstitutional. In October 2020, the district court held an evidentiary hearing on Gurneau's motion to suppress. The district court received into evidence Officer Ayshford's testimony and body-camera footage. The district court denied Gurneau's motion, concluding that the exigent-circumstances exception to the warrant requirement supported Officer Ayshford's reentry for the "express purpose of seizing the firearm." The matter proceeded to trial.

At trial, the two responding officers testified, and the state submitted Officer Ayshford's body-camera footage into evidence. Officer Ayshford testified that, when he drew his weapon in response to Gurneau pointing a firearm at him, his first thought was that "[he] was going to die that morning." Officer Ayshford also testified that he returned to the bedroom in order to secure the firearm. He testified that, based on his training and experience, "it's best to secure the weapon, whether it be a firearm or whatever for the

[1] Gurneau was also charged with domestic assault in violation of Minn. Stat. § 609.224, subd. 4 (2020), but the state dismissed that charge before trial.

safety, my, [sic] law enforcement safety and anyone else around." Gurneau testified in his own defense and did not substantively contest the officers' testimony.

The jury found Gurneau guilty on all three counts. The district court sentenced Gurneau to concurrent 60-month and 63-month sentences for unlawful possession of a firearm and second-degree assault, respectively. The district court entered a conviction for obstructing legal process but imposed no sentence.

This appeal follows.

DECISION

I. The district court did not err by denying Gurneau's motion to suppress the evidence.

Gurneau argues that the district court erred by denying his motion to suppress the evidence because no exigent circumstances existed to justify Officer Ayshford's warrantless reentry into the bedroom.

When reviewing a pretrial order on a motion to suppress, we review the district court's factual findings for clear error and its legal conclusions de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008). We independently review the facts to determine whether the district court erred as a matter of law by not suppressing the evidence. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004).

The United States and Minnesota Constitutions protect an individual's right against unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Warrantless searches of a home are presumptively unreasonable. *State v. Othoudt*, 482 N.W.2d 218, 221-22 (Minn. 1992). If a warrantless entry is made, evidence discovered

must be suppressed unless an exception to the warrant requirement applies. *Id.* at 222. The burden lies with the state to establish that an exception to the warrant requirement applies. *State v. Ture*, 632 N.W.2d 621, 627 (Minn. 2001). One of the recognized exceptions to the warrant requirement is the existence of exigent circumstances. *Othoudt*, 482 N.W.2d at 223.

Here, the district court determined that the exigent-circumstances exception applied. Exigent circumstances can be established either by a single factor or "totality of the circumstances." *State v. Gray*, 456 N.W.2d 251, 256 (Minn. 1990). We evaluate the facts found by the district court to determine whether exigent circumstances existed. *Id.* One recognized single-factor exigent circumstance—and the one referenced by the district court here—is the "possibility of danger to human life." *In re Welfare of B.R.K.*, 658 N.W.2d 565, 579 (Minn. 2003).

The district court found that exigent circumstances existed because the presence of an unsecure firearm in a place where others could access it presented a danger to human life. Gurneau argues that there were no exigent circumstances because there was no sign that anyone else inside the residence "pose[d] a realistic threat to the officers" because the other occupants of the residence were either elderly, children, or medically unresponsive.

The record supports the district court's finding that the presence of an unsecured, accessible firearm posed the possibility of danger to human life. Officer Ayshford knew that the woman who was in the bedroom with Gurneau at the time of his detention was likely aware of the firearm's location. In Officer Ayshford's interaction with the woman, she did not follow his instructions and, given the volatile circumstances, she could have

used or removed the firearm and caused harm to the officers or others. Officer Ayshford also observed several adults and children in the residence who could similarly access the firearm and harm someone with the weapon. And Officer Ayshford testified that he reentered the bedroom to search for the firearm "for [his] safety and [his] partner's safety, and the individuals at the residence." On this record, Officer Ayshford's belief that securing the firearm was necessary for public safety was reasonable and his warrantless reentry was therefore lawful. The district court did not abuse its discretion by finding that exigent circumstances existed to conduct a warrantless search for the firearm in the bedroom.[2]

II. The state proved beyond a reasonable doubt that Gurneau committed second-degree assault.

Gurneau argues the state did not present sufficient evidence to prove beyond a reasonable doubt that he intended to cause Officer Ayshford to fear immediate harm or death.

A person is guilty of second-degree assault when they commit "an act done with intent to cause fear in another of immediate bodily harm or death." Minn. Stat. § 609.02, subd. 10(1) (2020). Intent requires a showing that the defendant "has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result." *Id.*, subd. 9(4) (2020). Intent can be proved by circumstantial evidence that includes the nature of the assault, the surrounding events, and inferences drawn from the

[2] Because we conclude that the district court did not abuse its discretion by finding exigent circumstances existed, we need not address Gurneau's alternative argument regarding the applicability of the consent exception to the warrant requirement.

defendant's actions. *In re Welfare of T.N.Y.*, 632 N.W.2d 765, 769 (Minn. App. 2001). A fact-finder may infer that an actor "intends the natural and probable consequences of his actions." *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997).

"A conviction based on circumstantial evidence . . . warrants heightened scrutiny." *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). Our review of circumstantial evidence requires a two-step analysis. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, we identify the circumstances proved. *Id.* In doing so, we "defer to the jury's acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State." *Id.* at 598-99 (quotations omitted). We "consider only those circumstances that are consistent with the verdict." *Id.* at 599. Second, we consider the inferences that can be drawn from the circumstances proved. *Id.* We analyze "whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Id.* (quotations omitted). At this step, we do not defer to the jury's "choice between reasonable inferences." *Al-Naseer*, 788 N.W.2d at 474 (quotations omitted). To sustain a conviction, "[c]ircumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt." *Id.* at 473 (quotation omitted). We will not overturn a conviction based on mere conjecture. *State v. Andersen*, 784 N.W.2d 320, 330 (Minn. 2010).

The circumstances proved are as follows. Officer Ayshford knocked on the bedroom door and announced "police." When the door opened, Officer Ayshford observed

Gurneau pointing a firearm toward him. Officer Ayshford told Gurneau to drop the weapon, and Gurneau replied, "No" before backing away from the door.

Gurneau argues that the circumstances proved are consistent with a rational hypothesis of innocence. He contends that the circumstances do not show that Gurneau intended to cause Officer Ayshford fear of immediate harm or death because he held the firearm at "waist-level, at a downward angle." We disagree.

The only rational hypothesis based on the circumstances proved is that Gurneau intended to cause fear of immediate harm or death. *See Cooper*, 561 N.W.2d at 179. We have held that pointing a weapon at a police officer or another person establishes the requisite intent to cause fear. *See State v. Patton*, 414 N.W.2d 572, 574 (Minn. App. 1987) (concluding defendant brandished knife in a manner that the jury could have found that it was used as a dangerous weapon to cause fear in another of immediate bodily harm); *see, e.g., State v. Kastner*, 429 N.W.2d 274, 276 (Minn. App. 1988) (stating defendant pointed scissors and screwdriver at victim, assumed a position which the victim considered offensive, and made threatening statements to victim), *rev. denied* (Minn. Nov. 16, 1988); *State v. Soine*, 348 N.W.2d 824, 827 (Minn. App. 1984) (affirming defendant is convicted of second-degree assault because he brandished a knife "within striking distance" of his victim), *rev. denied* (Minn. Sept. 12, 1984). Thus, the circumstances proved are consistent with Gurneau's guilt, and he has identified no rational hypothesis except that of guilt. *See Al-Naseer*, 788 N.W.2d at 473 (quotations omitted). The evidence supports Gurneau's second-degree assault conviction.

III. The district court did not err by entering a conviction for obstructing legal process.

Gurneau argues that the district court erred by entering convictions for both second-degree assault and obstructing legal process. Although the state agrees that the district court erred by entering a conviction for obstructing legal process, we see no error by the district court in entering convictions for both second-degree assault and obstructing legal process.

Minnesota Statutes section 609.04 (2020) prohibits a conviction for both the crime charged and an included offense. Under that statute, a defendant "may be convicted of either the crime charged or an included offense, but not both." Minn. Stat. § 609.04, subd. 1. An included offense is "[a] crime necessarily proved if the crime charged were proved." *Id.*, subd. 1(4). Therefore, to determine whether multiple convictions are prohibited, a district court must compare the statutory elements of both crimes to determine whether the elements of the crimes are different. *See State v. Bertsch*, 707 N.W.2d 660, 664 (Minn. 2006). Whether an offense is an included offense is a question of law we review de novo. *State v. Degroot*, 946 N.W.2d 354, 364 (Minn. 2020).

We conclude that the district court did not violate the "included offense" restriction in section 609.04 by entering convictions for both second-degree assault and obstructing legal process. The second-degree assault charge required the state to prove that Gurneau acted with intent to cause fear of bodily harm with a dangerous weapon, Minn. Stat. § 609.222, subd. 1, while the obstructing-legal-process charge required the state to prove that Gurneau intended to obstruct, resist, or interfere with a peace officer while the officer

performed his official duties, Minn. Stat. § 609.50, subd. 1(2). None of the elements of the two offenses overlap. A defendant can commit the offense of obstructing legal process without necessarily committing an assault offense.[3] We therefore see no violation of section 609.04.

Affirmed.

[3] Gurneau's argument mistakenly relies on Minn. Stat. § 609.035 (2020). That section precludes multiple *sentences* arising from a single behavioral incident. Minn. Stat. § 609.04, on the other hand, prohibits multiple *convictions* for the crime charged and an included offense. The district court properly applied section 609.035 and imposed one sentence for the assault and did not impose a sentence for obstructing legal process.