

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2012).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-2295**

State of Minnesota,
Respondent,

vs.

James Allen Eiring,
Appellant.

**Filed October 7, 2013
Affirmed
Stoneburner, Judge**

Sibley County District Court
File No. 72CR1252

Lori Swanson, Attorney General, St. Paul, Minnesota; and

David E. Schauer, Sibley County Attorney, Donald E. Lannoye, Assistant County Attorney, Winthrop, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Rochelle R. Winn, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Peterson, Judge; and Stoneburner, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant argues that his convictions of two counts of second-degree assault were based on insufficient evidence. We affirm.

FACTS

On March 16, 2012, the McLeod County dispatcher alerted officers that appellant James Allen Eiring was driving after cancellation and that he was armed with a knife. After officers spotted Eiring's vehicle and began following it, Eiring led them on a chase before stopping on a rural road in Sibley County. Eiring got out of his vehicle and approached Officer Jesse Duenow, who had gotten out of his truck. Eiring brandished a knife and urged Duenow to kill him. Duenow got back in his truck, and Eiring went to the driver's-side window, hitting it with the knife and his fist. Eiring then turned and ran towards Officer Matthew Rolf with the knife raised above his head. When Rolf retreated into his truck, Eiring pounded on Rolf's window with the knife while urging Rolf to kill him. Officers eventually subdued and arrested Eiring, who repeatedly apologized.

Eiring was charged with several crimes not relevant to this appeal. The relevant charges are two counts of second-degree assault for his actions toward Officers Duenow and Rolf. At trial, the jury heard testimony from the officers, watched a squad-car video that captured much of the pursuit and confrontation, and heard a recording of the radio communications during the incident.

The jury found Eiring guilty of both counts. Eiring appealed.

D E C I S I O N

The Minnesota criminal code defines "assault" as "an act done with intent to cause fear in another of immediate bodily harm or death[] or [] the intentional infliction of or attempt to inflict bodily harm upon another." Minn. Stat. § 609.02, subd. 10 (2010).

Eiring argues that because there is no direct evidence of his intent, his conviction should

be subjected to the heightened scrutiny applied to convictions based on circumstantial evidence. He asserts that under such heightened scrutiny, the circumstantial evidence is insufficient to prove the element of intent. We disagree.

Eiring assumes, without argument, that his conduct is circumstantial evidence of his intent, and adopts the analytical framework appropriate for convictions based on circumstantial evidence. The state, also without argument about the nature of the evidence, conducts its analysis under the standard applicable to convictions based on direct evidence. We need not resolve this implicit dispute because we find that the evidence is sufficient to support the convictions, even when analyzed under the heightened circumstantial-evidence standard.

To support a guilty verdict in a case based entirely on circumstantial evidence, the circumstantial evidence must form a complete chain that excludes, beyond a reasonable doubt, any reasonable inference other than guilt. *State v. Jones*, 516 N.W.2d 545, 549 (Minn. 1994). In applying this standard, the reviewing court examines only circumstances proved and the inferences that can be drawn from those proven circumstances. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010). In assessing the inferences to be drawn from the circumstances proved, the court examines whether there are “no other reasonable, rational inferences that are inconsistent with guilt.” *Id.* at 330 (quotation omitted).

Eiring concedes that, while yelling at the officers to kill him, he ran toward Officers Duenow and Rolf brandishing a knife, and, when the officers retreated to their vehicles, he battered their vehicles’ windows with the knife and his fists. On appeal,

Eiring argues that his conduct is evidence only of his intent to provoke the officers to kill him, rather than intent to cause the officers to fear for their safety. Eiring may be correct in asserting that “the evidence supports the conclusion that [he] was more interested in harming himself than he was in harming the officers and merely brandished the knife to provoke them into using lethal force.” But the evidence plainly demonstrates that Eiring intended to provoke the officers to be so fearful for their safety that they would respond with deadly force. The circumstances proved eliminate every rational inference other than that Eiring intended to cause fear of immediate bodily harm or death.

Affirmed.