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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-678**

State of Minnesota,
Respondent,

vs.

Kyle Gordon Engbard,
Appellant.

**Filed March 9, 2010
Affirmed
Wright, Judge**

Steele County District Court
File No. 74-CR-06-553

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

Douglas L. Ruth, Steele County Attorney, Christy M. Hormann, Assistant County Attorney, Owatonna, Minnesota (for respondent)

John Stuart, State Public Defender, Davi E. Axelson, Assistant State Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wright, Presiding Judge; Worke, Judge; and Larkin, Judge.

UNPUBLISHED OPINION

WRIGHT, Judge

Appellant Kyle Engbard appeals his conviction of obstructing legal process with force, a gross-misdemeanor violation of Minn. Stat. § 609.50, subds. 1(2), 2(2) (2004),

arguing that the evidence presented during a bench trial was insufficient to support the guilty verdict. We affirm.

FACTS

On June 2, 2006, at 6:35 p.m. in the city of Owatonna, Police Chief Shaun LaDue observed appellant Kyle Engbard driving 61 miles per hour in a 30-miles-per-hour zone. At the time, Engbard knew that his driving privileges had been suspended. To avoid being stopped by Chief LaDue, Engbard completed a turn at a speed that made his tires squeal and pulled into a nearby driveway. A woman witnessed Engbard's abrupt turn into the driveway and flagged down Chief LaDue. She directed him to the location where Engbard was parked. Chief LaDue then directed Engbard to move to the rear of the vehicle for safety reasons, but Engbard did not comply. Chief LaDue placed Engbard in handcuffs.

According to Chief LaDue, after he handcuffed Engbard, Engbard began yelling and threatening to kill Chief LaDue. Engbard also claimed that he was being beaten by the police. Chief LaDue testified that he was forced to get "a much stronger grip [on Engbard] because he was trying to fight. Even when [Engbard] was handcuffed . . . he was struggling" and resisting Chief LaDue's directives. When Chief LaDue attempted to place Engbard in the back of the squad car, Engbard "became very aggressive" and resistant again. Although this struggle was somewhat controlled because Engbard was handcuffed, when Chief LaDue attempted to place Engbard in the squad car, Engbard was able to turn around and break Chief LaDue's grip on his wrists. Engbard then turned to face Chief LaDue and began yelling that the police were assaulting him. Chief LaDue

used his forearm to pin Engbard between Chief LaDue and the squad car. At this point, Chief LaDue regained his grip on Engbard's arms and placed him in the rear of the squad car. Engbard struggled and kicked throughout the process of entering the squad car, requiring Chief LaDue to force the squad door closed.

Two witnesses observed Engbard's conduct before and during the arrest. The first witness testified that Engbard was "wiggling around" and being uncooperative. She described Engbard's attitude toward Chief LaDue as "aggressive" and "radical." According to this witness, Engbard did not comply with Chief LaDue's instructions. The second witness testified that Engbard clearly did not want to get into the squad car and resisted Chief LaDue's attempts to place him there. The second witness also described Engbard's yelling throughout the arrest.

Engbard's version of the events differed from the testimony of Chief LaDue and the witnesses. Engbard testified that Chief LaDue immediately handcuffed him, pulled him aggressively by the arm, and "slammed" him against the squad car. While doing so, Chief LaDue put his elbow against Engbard's neck and picked him up by the neck. Engbard testified that he was angered by Chief LaDue's use of excessive force.

The district court found that, when Chief LaDue attempted to place Engbard under arrest,

Chief LaDue handcuffed [Engbard] and attempted to have him seated in the rear of his squad car. [Engbard] physically resisted and at one point broke free from Chief LaDue and was able to spin around and face Chief LaDue. At one point in the struggle, [Engbard] threatened to kill Chief LaDue.

The district court found Engbard guilty of driving after suspension, a violation of Minn. Stat. § 171.24, subd. 2 (2004); reckless driving, a violation of Minn. Stat. § 169.13, subd. 1 (2004); and obstructing legal process with resistance, force, or violence, a violation of Minn. Stat. § 609.50, subs. 1(2), 2(2).¹ On appeal, Engbard challenges only his conviction of obstructing legal process with force.

D E C I S I O N

Engbard argues that the evidence is insufficient to support his conviction of obstructing legal process with force. When reviewing a challenge to the sufficiency of the evidence, we conduct a thorough analysis to determine whether the fact-finder reasonably could find the defendant guilty of the offense based on the facts in the record and the legitimate inferences that can be drawn from those facts. *State v. Chambers*, 589 N.W.2d 466, 477 (Minn. 1999). In doing so, we view the evidence in the light most favorable to the verdict and assume that the fact-finder believed the evidence supporting the guilty verdict and disbelieved any evidence to the contrary. *Id.* We will not disturb the verdict if the fact-finder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, reasonably could conclude that the defendant was guilty of the charged offense. *State v. Alton*, 432 N.W.2d 754, 756 (Minn. 1988).

Section 609.50 provides in pertinent part that, whoever intentionally “obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance

¹ The district court found Engbard not guilty of obstructing legal process by interfering with a peace officer, Minn. Stat. § 609.50, subd 1(2). This charge was based on Engbard’s post-arrest conduct at the police station.

of official duties” commits obstruction of legal process. Minn. Stat. § 609.50, subd. 1(1), (2). Such obstruction is a gross misdemeanor when the act is accompanied by force or violence or the threat of force or violence. *Id.*, subd. 2(2). Under this statute, physically obstructing or interfering with a police officer involves substantially frustrating or hindering the officer in the performance of his duties, not merely interrupting those duties. *State v. Krawsky*, 426 N.W.2d 875, 877 (Minn. 1988). Section 609.50 does not define “force or violence,” but we have held that “the lack of a statutory definition for these words means that the words have such a distinct and common usage that they require no further definition.” *State v. Diedrich*, 410 N.W.2d 20, 23 (Minn. App. 1987) (quotation omitted).

Engbard argues that his conduct does not constitute gross-misdemeanor obstruction of legal process because he did not intend to “throw a punch” at Chief LaDue and because his conduct was merely frustrating for the arresting officer. But a broad range of conduct, which encompasses Engbard’s conduct, has been deemed sufficient to support a conviction of obstructing legal process with force. *See, e.g., State v. Engholm*, 290 N.W.2d 780, 784 (Minn. 1980) (holding that struggling with officers, jerking away, and threatening to shoot officers met statutory threshold). That Engbard did not intend to punch at Chief LaDue is not dispositive.

Here, the district court found that Engbard resisted, struggled with, and threatened to kill Chief LaDue. When viewing the evidence presented in the light most favorable to the verdict, Engbard’s conduct that the district court characterized as “resisting” and “struggling” included “trying to fight,” “wiggling around,” refusing to get into the squad

car, twisting around, and breaking Chief LaDue's grip on Engbard's wrists. This physical conduct was accompanied by Engbard's statement that he was going to kill Chief LaDue. Engbard's conduct fits well within the conduct that constitutes obstruction of legal process "accompanied by force or violence or the threat thereof." Minn. Stat. § 609.50, subd. 2(2). Accordingly, when viewed in the light most favorable to the verdict, the evidence is more than sufficient to support Engbard's conviction of gross-misdemeanor obstruction of legal process with force.

Affirmed.