*This opinion will be unpublished and*
*may not be cited except as provided by*
*Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A09-2101**

State of Minnesota,
Respondent,

vs.

Shann Allen Nelson,
Appellant.

**Filed August 31, 2010**
**Affirmed**
**Halbrooks, Judge**

Hennepin County District Court
File No. 27-CR-09-29823

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

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Susan J. Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Minge, Presiding Judge; Halbrooks, Judge; and Ross, Judge.

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

**HALBROOKS**, Judge

Appellant challenges his conviction of first-degree burglary following a stipulated-facts trial on the ground that the district court was predisposed to find him guilty. We affirm.

## FACTS

Appellant Shann Allen Nelson was arrested and charged with first-degree burglary in June 2009. T.W., appellant's ex-girlfriend and the victim, told the police that appellant broke down her door, entered her apartment, grabbed a knife and threatened her with it, and then tried to bite her face and arms before the police arrived. T.W.'s cousin, who was staying with T.W., called 911 when she awoke to a loud bang, but then hung up the phone when the yelling escalated. The police arrived, and T.W. let them in, stating, "I need help." The police found appellant trying to escape through a window.

Appellant agreed to plead guilty to the charge, but at the guilty-plea hearing he was unwilling to establish the factual basis for the plea. Appellant insisted that he had a key to the apartment and that he did not enter with the intent to commit a crime. The district court set the matter for trial, but two days later appellant re-appeared for a stipulated-facts trial. The case was submitted to the district court on the facts contained in 11 pages of police reports. The district court had read the reports prior to the stipulated-facts trial and, after confirming that appellant was aware of his rights and was agreeing to waive those rights, found him guilty. Appellant's sentence was stayed, and he was placed on probation for three years. This appeal follows.

## D E C I S I O N

Appellant asserts that the district court was predisposed to find him guilty and that this bias represents a structural error warranting reversal. "[T]he right to a trial before an impartial judge . . . has long been recognized by the United States Supreme Court." *State v. Dorsey*, 701 N.W.2d 238, 249 (Minn. 2005). A violation of the constitutional right to a fair trial may constitute a "trial error" subject to harmless-error analysis or a "structural error" subject to immediate reversal. *Id.* at 252. But there is a strong "presumption that a judge has discharged his or her judicial duties properly." *McKenzie v. State*, 583 N.W.2d 744, 747 (Minn. 1998).

Appellant bases his assertion that the district court was predisposed to find him guilty on the fact that "[t]he court acknowledged that it had already read the police reports, it did not ask the attorneys to argue the evidence, and it did not require additional time to arrive at a verdict." Appellant's argument has no merit. Appellant waived both his right to a jury trial and his right to a bench trial. Appellant stipulated to the facts contained in 11 pages of police reports. And as the district court thoroughly explained, the facts stipulated to in the police reports clearly established appellant's guilt.

Appellant relies on an unpublished opinion from this court where we reversed a guilty verdict following a stipulated-facts trial when the district court stated during the defendant's waiver of his rights: "Let's make this clear . . . if you proceed in this fashion, I am going to find you guilty." *Walker v. State*, No. A05-2036, 2006 WL 1704203, at *1 (Minn. App. June 20, 2006). Besides being unpublished, and therefore unprecedential, *Walker* is distinguishable because there is nothing here that appellant can point to (such

as the statement “I am going to find you guilty”) that suggests that the district court had predetermined his guilt. The only fact that appellant can point to is the fact that the district court had read the police reports before trial. Evidence that the district court was prepared to perform its duties does nothing to undermine the presumption that the district court discharged those duties properly and impartially.

**Affirmed.**