

STATE OF MINNESOTA

IN SUPREME COURT

A19-0253

Court of Appeals

Gildea, C.J.

State of Minnesota,

Respondent,

vs.

Filed: October 21, 2020  
Office of Appellate Courts

Dakota James-Burcham Thompson,

Appellant.

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Keith Ellison, Attorney General, Saint Paul, Minnesota; and

David L. Hanson, Beltrami County Attorney, Bemidji, Minnesota, for respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Gina Schulz, Assistant State Public Defender, Saint Paul, Minnesota, for appellant.

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S Y L L A B U S

1. A “fictitious name,” for purposes of Minn. Stat. § 609.506, subd. 1 (2018), includes names that use only parts of a full legal name.

2. Because the State proved that appellant gave police a partial name with intent to obstruct the police investigation, the State presented sufficient evidence to support

appellant's conviction for giving police a fictitious name under Minn. Stat. § 609.506, subd. 1.

Affirmed.

## OPINION

GILDEA, Chief Justice.

The question in this case is whether a partial legal name constitutes a fictitious name under Minn. Stat. § 609.506, subd. 1 (2018). Appellant Dakota James-Burcham Thompson was convicted of giving a fictitious name to a peace officer in violation of Minn. Stat. § 609.506, subd. 1. The court of appeals affirmed Thompson's conviction. Thompson argues that because he gave police a name that was part of his full name, the evidence introduced at trial was insufficient to prove that he gave the peace officer a fictitious name. Because a fictitious name, for purposes of Minn. Stat. § 609.506, subd. 1, includes a partial legal name, we affirm.

## FACTS

Police stopped Thompson's car for speeding. When the officer asked him for his name, Thompson replied "Kota." The officer asked if "Kota" was short for "Dakota," and Thompson said it was. The officer then asked for Thompson's middle and last names. Thompson responded that his middle name was "James" and his last name was "Burcham." Thompson gave his correct date of birth.

The officer conducted a records check on the name Dakota James Burcham, including any aliases or "also known as" names, and using the birth date Thompson gave. The search produced no results so the officer returned to the car and asked Thompson if

“Dakota James Burcham” was, in fact, his name and if he ever went by any other name. Thompson responded that it was his name and he did not go by any other names. The officer then broadened his records check and determined that Thompson’s name was actually Dakota James-Burcham Thompson. The officer also found an active warrant for Thompson’s arrest.

The State subsequently charged Thompson with giving a fictitious name to a peace officer in violation of Minn. Stat. § 609.506, subd. 1. The officer who stopped Thompson’s car testified at trial to the facts discussed above. Thompson also testified. He explained that before he was adopted, his name was Dakota James Burcham. Thompson admitted his full legal name has been Dakota James-Burcham Thompson for 11 to 13 years. Thompson testified that he gave the officer the name Dakota James Burcham, rather than his legal name of Dakota James-Burcham Thompson, because he was “hesita[nt] with law enforcement due to [his] past.”

The jury found Thompson guilty of giving a peace officer a fictitious name. The district court convicted Thompson and sentenced him to 55 days in jail.

Thompson appealed, arguing that the evidence was insufficient to convict him of giving a fictitious name to a peace officer. *State v. Thompson*, 937 N.W.2d 476, 478 (Minn. App. 2019). Thompson’s argument relied on interpreting a “fictitious name” to mean “a fabricated or concocted name but not a misleadingly shortened version of one’s actual name.” *Id.* The court of appeals affirmed, holding that “the statute criminalizes giving an investigating police officer any name or name variant that would tend to mislead the officer

away from one’s true identity in official records.” *Id.* We granted Thompson’s petition for review.

## ANALYSIS

On appeal, Thompson argues that his conviction should be reversed because there is insufficient evidence to prove he provided police a fictitious name. When considering a sufficiency-of-the-evidence argument, we “view[] the evidence in the light most favorable to the jury’s verdict, assuming the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not overturn a verdict “if, giving due regard to the presumption of innocence and the prosecution’s burden of proving guilt beyond a reasonable doubt, the jury could reasonably have found the defendant guilty of the charged offense.” *State v. Leake*, 699 N.W.2d 312, 319 (Minn. 2005). Thompson’s sufficiency-of-evidence argument depends on the meaning of “fictitious name” in Minn. Stat. § 609.506, subd. 1. When the sufficiency-of-the-evidence claim turns on the meaning of a statute, we are presented with a question of statutory interpretation that we review de novo. *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020).

### I.

We turn first to the statutory interpretation question. Thompson argues that because he gave police part of his legal name, he did not give police a “fictitious name” under Minn. Stat. § 609.506, subd. 1. This statute provides:

Whoever with intent to obstruct justice gives a fictitious name other than a nickname, or gives a false date of birth, or false or fraudulently altered identification card to a peace officer . . . when that officer makes inquiries

incident to a lawful investigatory stop or lawful arrest . . . is guilty of a misdemeanor.

*Id.*

Thompson’s argument focuses on the word “fictitious” in the phrase “fictitious name.” In interpreting a statute, we “construe[]” words “according to their common and approved usage.” Minn. Stat. § 645.08, subd. 1 (2018). Because the Legislature did not define the word “fictitious,” we may determine its common meaning by looking to, and applying, dictionary definitions in the context of the statute. *State v. Prigge*, 907 N.W.2d 635, 638 (Minn. 2018).

The word “fictitious” is defined as “not real or true; imaginary or fabricated.” *Oxford Dictionary of English* 647 (3d ed. 2010). Additionally, *Merriam-Webster’s* defines fictitious, of a name, as “false” or “assumed.” *Merriam-Webster’s Collegiate Dictionary* 432 (10th ed. 1993). Relying on these definitions, “fictitious,” as applied to names, means a false name and a name that is not a person’s true name, which would include a partial, or rearranged legal name.<sup>1</sup>

Reading the statute as a whole confirms that part of someone’s legal name is a “fictitious name.” See *Save Lake Calhoun v. Strommen*, 943 N.W.2d 171, 177 (Minn. 2020) (“We do not read words in isolation; the meaning of a word is informed by how it is

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<sup>1</sup> The State asks us to define “fictitious name” as a technical, legal phrase using *Black’s Law Dictionary*. A word or phrase that frequently appears as a legal term in statutory references may be defined by using legal dictionaries. *Getz v. Peace*, 934 N.W.2d 347, 354 (Minn. 2019); see also Minn. Stat. § 645.08, subd. 1. In this case, we would reach the same conclusion regarding the meaning of “fictitious name” regardless of which dictionary we use. We therefore decline to decide whether “fictitious name” is a technical term.

used in the context of the statute.”). Specifically, we look to the exception in the statute for nicknames. The Legislature makes clear in the statute that it is not a crime to give police a nickname. Minn. Stat. § 609.506, subd. 1 (“Whoever with intent to obstruct justice gives a fictitious name other than a nickname”). Many nicknames are simply shortened versions of full legal names, such as the nickname Will or Liam for William or Becca for Rebecca.<sup>2</sup> If these shortened versions of names did not fall within the broad term “fictitious,” there would be no reason for the Legislature to have exempted them from the statute’s reach. In short, reading “fictitious” in context confirms that part of a legal name is a “fictitious name” under the statute.

In urging us to reach a different conclusion, Thompson argues that because he gave police part of his name and that part was not made up, it is not fictitious. He relies, in part, on a different dictionary definition, which defines “fictitious” as “[c]oncocted or fabricated, especially in order to deceive or mislead; make up.” *The American Heritage Dictionary of the English Language* 654 (5th ed. 2011). According to Thompson, concocted or fabricated names are those that are wholly made up and exclude names that are simply false, such as a partial legal name.<sup>3</sup> Because Thompson gave police a shortened version of his actual name, rather than a name that was completely made up, Thompson reasons he did not give a fictitious name.

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<sup>2</sup> Thompson did not argue that the name he gave to the officer was a nickname.

<sup>3</sup> Thompson admits that the name he gave police was false but argues that, under his interpretation, it was not fictitious.

We are not persuaded. The plain meaning of “fictitious” is not limited to only made-up names. And even the terms upon which Thompson relies—“fabricate” and “concoct”—make clear that a partial, rearranged name can constitute a fictitious name. *See The American Heritage Dictionary of the English Language, supra*, at 382, 631 (“Concoct” means “[t]o devise, using skill and intelligence; contrive,” and “fabricate” is defined as “to make; create” or “[t]o construct by combining or assembling diverse, typically standardized parts.”).

Thompson also argues that “fictitious” cannot include partial legal names because “fictitious” must mean something other than “false.” Specifically, Thompson argues that because the statute uses both “fictitious” and “false,” those two terms must mean different things in the statute. Thompson notes that it is a crime under the statute to give police a “fictitious name” and also a crime to give police a “false date of birth” or “a false identification card.” Minn. Stat. § 609.506, subd. 1. If “fictitious” means “false,” Thompson argues one of these terms is rendered superfluous.

Thompson relies on what he contends are intrinsic canons of statutory interpretation: the rule against surplusage and the presumption of consistent usage. The canon against surplusage “favors giving each word or phrase in a statute a distinct, not an identical, meaning.” *State v. Thonesavanh*, 904 N.W.2d 432, 437 (Minn. 2017). Stated differently, we attempt to avoid interpretations that would render a word or phrase superfluous, void, or insignificant, thereby ensuring each word in a statute is given effect. *See Baker v. Ploetz*, 616 N.W.2d 263, 269 (Minn. 2000). Additionally, we have determined that “there is a presumption of consistent usage throughout a statute.” *State v. Schmid*, 859 N.W.2d 816,

822 (Minn. 2015). In other words, “when different words are used in the same context, we assume that the words have different meanings” so that every word is given effect. *Dereje v. State*, 837 N.W.2d 714, 720 (Minn. 2013).

These canons are not helpful here. To interpret “fictitious” as including partial legal names or names that are false does not make part of the statute inoperative because the words at issue—fictitious and false—describe different behavior in the statute. *Id.* at 720-21 (holding that the use of “stipulated evidence” used in one subdivision and the use of “stipulated facts” in another subdivision must have different meanings because the different words are used in the same context); *see also Util. Air Regul. Grp. v. E.P.A.*, 573 U.S. 302, 320 (2014) (stating that “the presumption of consistent usage readily yields to context”) (internal quotation marks omitted).

In sum, the plain meaning of “fictitious name” in Minn. Stat. § 609.506, subd. 1, means names that are false and includes names that use only parts of a full legal name.<sup>4</sup>

## II.

Having defined “fictitious name,” we turn to the issue of whether sufficient evidence supports Thompson’s conviction under Minn. Stat. § 609.506, subd. 1. Thompson argues that the State failed to prove that he gave a fictitious name to police. We disagree.

The officer testified that Thompson told him his name was Dakota James Burcham and that he did not go by any other names. In his testimony, Thompson acknowledged that he did not give his full, legal name to police and that his legal name was Dakota James-

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<sup>4</sup> Because we resolve this case based on the plain meaning of the statute, we do not consider the parties’ arguments regarding ambiguity.



Burcham Thompson. Because we have concluded that a fictitious name includes a partial legal name, the jury could have reasonably concluded that the State met its burden of proving that Thompson gave police a fictitious name.<sup>5</sup> We therefore hold that the evidence is sufficient to support Thompson's conviction.

### **CONCLUSION**

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

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<sup>5</sup> The parties agree that the State's evidence is sufficient as to the other elements of the crime.