STATE OF MINNESOTA

IN SUPREME COURT

A20-0375

Court of Appeals | Anderson, J.

State of Minnesota,

Respondent,

vs.

Filed: December 15, 2021
Office of Appellate Courts

Cordale Irby,

Appellant.

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

John J. Choi, Ramsey County Attorney, Jeffrey A. Wald, Assistant Ramsey County Attorney, Saint Paul, Minnesota, for respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Jessica Merz Godes, Assistant State Public Defenders, Saint Paul, Minnesota, for appellant.

S Y L L A B U S

1. The statute that prohibits wrongfully obtaining public assistance, Minn. Stat. § 256.98, subd. 1 (2012), requires proof that a defendant acted with the "intent to defeat the purposes of" any one or more of the listed public assistance programs.

2. The State presented sufficient evidence to sustain appellant's conviction.

Affirmed.

O P I N I O N

ANDERSON, Justice.

This appeal requires us to interpret the language of the statute that prohibits wrongfully obtaining public assistance, Minn. Stat. § 256.98, subd. 1 (2012). Respondent State of Minnesota discovered multiple false statements in applications for public assistance submitted by appellant Cordale Irby. A jury then found Irby guilty of violating section 256.98, subdivision 1(1), by obtaining public assistance to which he was not entitled through willfully false statements. The court of appeals affirmed his conviction. Irby now claims that the language of the statute requires the State to prove that he intended to defeat the purposes of all the public assistance programs listed within the statute.

The statute prohibits certain acts or omissions committed with the "intent to defeat the purposes of" a list of nine separate public assistance programs. Minn. Stat. § 256.98 (2012). We conclude that when viewed as a whole, the plain language of the statute does not require a defendant to act with an "intent to defeat the purposes of" every listed program. We also conclude that the State presented sufficient evidence to prove that Irby acted with the intent to defeat the purposes of two of the listed programs. Consequently, we affirm the decision of the court of appeals.

FACTS

The relevant facts are not disputed. Between 2012 and 2017, Irby applied for and received over $65,000 in public assistance through the Ramsey County Community Health Services Division. Irby received Medical Assistance, as well as funds through the Supplemental Nutrition Assistance Program (SNAP) and the Minnesota Family Investment

Program (MFIP). In applying for this assistance, Irby repeatedly claimed that he had neither income nor assets. He claimed his only expense was rent. To show the amount of rent he paid, Irby submitted paperwork purportedly completed and signed by his landlord, "Tom Bates."

But the State discovered that during the time he was receiving aid, Irby had earned nearly $55,000 gambling at three separate casinos. Further investigation revealed that Irby had accounts at three separate banks. While Irby was receiving public aid, bank records show over $70,000 in deposits for these accounts. Irby also owned twelve cars. Rather than paying rent, Irby had executed a contract for deed to buy his home. After making monthly payments that sometimes exceeded $5000, Irby owned the home outright by July 2015. Irby never disclosed any of these assets in his applications for public assistance. And Irby's alleged landlord "Tom Bates" did not exist.

Based on this information, the State charged Irby with violating Minnesota's wrongfully obtaining assistance statute, Minn. Stat. § 256.98, subd. 1(1).[1] The statute

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[1] Irby was convicted of violating the 2012 version of the statute. The applicable portion of the statute was amended in 2015 and 2019, and now reads as follows:

> [W]ith intent to defeat the purposes of sections 145.891 to 145.897, the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC program formerly codified in sections 256.72 to 256.871, chapter 256B, 256D, *256I*, 256J, 256K, or 256L, child care assistance programs, *and emergency assistance programs under section 256D.06*.

Minn. Stat. § 256.98, subd. 1 (2020) (emphasis added). This language remains substantially the same as the 2012 version, and our analysis in this case of the 2012 version of the statute applies with equal force to the current version of the statute. Subdivision 1(1) was further amended in 2021 to change the word "vouchers" to "food benefits." Act of May 25, 2021, ch. 30, art. 3, § 43, 2021 Minn. Laws 1, 69. This likewise does not affect our analysis in this case.

prohibits several acts or omissions, including obtaining public assistance to which a person is not entitled by means of a willfully false statement, committed with the "intent to defeat the purposes of sections 145.891 to 145.897,[[2]] the MFIP program formerly codified in sections 256.031 to 256.0361,[[3]] the AFDC program formerly codified in sections 256.72 to 256.871,[[4]] chapters 256B, 256D, 256J, 256K, *or* 256L,[[5]] *and* child care assistance programs." *Id*. (emphasis added). Irby testified in his own defense. He claimed that he did not mean to defraud the State and was unaware of any mistakes in his applications. Irby claimed that the false statements in his applications had been put there by someone else. But Irby testified that he could not remember who had completed the paperwork and had no explanation for how the same false statements had been included in multiple applications. The jury found Irby guilty. The district court stayed execution of a 366-day prison sentence and imposed 5 years of supervised probation. The court also ordered Irby to pay $74,173 in restitution.

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[2] Sections 145.891–.897 codify the "Maternal and Child Nutrition Act of 1975."

[3] The MFIP codified in sections 256.031–.0361 was repealed in 1998 and 1999. Act of Apr. 21, 1998, ch. 47, art. 6, § 118, 1998 Minn. Laws 1989, 2234; Act of May 13, 1999, ch. 159 § 154, 1999 Minn. Laws 763, 869. MFIP is now codified in chapter 256J. Minn. Stat. § 256J.01 (2020).

[4] The AFDC program was repealed in 1997. Act of Apr. 30, 1997, ch. 85, art. 1, § 74, 1997 Minn. Laws 499, 586.

[5] These chapters address medical assistance for needy persons, economic assistance and food support, the current MFIP, services for homeless families and youth, and the Minnesotacare program.

Irby appealed his conviction. He argued that the State presented insufficient evidence to support his conviction. Specifically, Irby argued that the statute required the State to prove that, when he wrongfully obtained assistance, he acted with the "intent to defeat the purposes of" every one of the listed programs. The court of appeals rejected Irby's argument and affirmed his conviction.[6] *State v. Irby*, 957 N.W.2d 111, 117–19 (Minn. App. 2021). We granted review.

ANALYSIS

On appeal, Irby renews his argument that the State presented insufficient evidence to sustain his conviction. Irby first argues that, because the statute he was convicted of violating contains a list of programs joined with the word "and," the State must prove that he acted with the intent to defeat the purpose of each and every program[7] set out in that list. Irby next argues that because the State presented no evidence that he intended to defeat the purposes of, for example, the Maternal and Child Nutrition Act of 1975, the evidence is insufficient to sustain his conviction. We consider each argument in turn.

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[6] Although Irby raised arguments related to the jury instructions and the district court's restitution order, those arguments are not before us. *See Irby*, 957 N.W.2d at 123.

[7] Throughout his briefing, Irby argued that the State must prove intent to defeat "all" programs listed in section 256.98. At oral argument, Irby proffered a more limited claim. There, he argued that the statute requires proof of intent to defeat a set of programs: sections 145.891 to 145.897, the former MFIP, AFDC, childcare assistance, and at least one of chapters 256B, 256D, 256J, 256K, or 256L. In either case, Irby advanced a more restrictive reading than the State, which argued that the statute requires proof of intent to defeat any one of the listed programs.

I.

We first must interpret the language of the statute that Irby was convicted of violating. A sufficiency-of-the-evidence challenge based on a statutory interpretation argument is a legal question, which we review de novo. *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019). "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020). Our first step is to examine "the text, structure, and punctuation" of the statute. *State v. Khalil*, 956 N.W.2d 627, 634 (Minn. 2021). In examining the text, structure, and punctuation of the statute, "words and phrases are construed according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08, subd. 1 (2020). But no single grammatical rule controls this analysis. *See Pakhnyuk*, 926 N.W.2d at 921–22. Rather, we must "construe a statute as a whole and interpret its language to give effect to all of its provisions." *State v. Riggs*, 865 N.W.2d 679, 683 (Minn. 2015); *see also State v. Gaiovnik*, 794 N.W.2d 643, 647 (Minn. 2011) ("[W]e do not examine different provisions [of a statute] in isolation."). If possible, "no word, phrase, or sentence should be deemed superfluous, void, or insignificant." *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999).

We use the principles discussed above when assessing the reasonableness of a party's proposed interpretation of the language in question. For example, in *State v. Strobel*, we concluded that the interpretation proposed by the State was unreasonable because when the sentencing guideline provision was read as a whole, the State's interpretation failed to give effect to one paragraph of a statutory provision. 932 N.W.2d

303, 309 (Minn. 2019) (explaining that "[u]nder the State's interpretation, paragraph b would do no work"). On the other hand, in *State v. Mikell* we concluded that, when read in the context of the statute as a whole, the language in question supported two reasonable interpretations. 960 N.W.2d 230, 241 (Minn. 2021).

When the language of a statute is subject to more than one reasonable interpretation it is ambiguous, in which case we try to resolve the ambiguity using the canons of construction. *Id*. But "when the language of a statute is susceptible to only one reasonable interpretation, it is unambiguous and we must apply its plain meaning." *State v. Culver*, 941 N.W.2d 134, 139 (Minn. 2020). In such cases, " 'statutory construction is neither necessary nor permitted.' " *Lapenotiere v. State*, 916 N.W.2d 351, 357 (Minn. 2018) (quoting *State v. Kelbel*, 648 N.W.2d 690, 701 (Minn. 2002)).

In accordance with the principles discussed above, our analysis begins with the language of the statutory provision in question, which reads:

> A person who commits any of the following acts or omissions with intent to defeat the purposes of sections 145.891 to 145.897, the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC program formerly codified in sections 256.72 to 256.871, chapter 256B, 256D, 256J, 256K, or 256L, *and* child care assistance programs, is guilty of theft . . .
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> > (1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to include child care assistance or food benefits produced according to sections 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94, and 256L.01 to 256L.15, to which the person is not entitled or assistance greater than that to which the person is entitled;

> (2) knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the county agency; or
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> (3) obtains or attempts to obtain, alone or in collusion with others, the receipt of payments to which the individual is not entitled as a provider of subsidized child care, or by furnishing or concurring in a willfully false claim for child care assistance.

Minn. Stat. § 256.98, subd. 1 (emphasis added).

The arguments of the parties focus on the word "and" in the first paragraph of Minn. Stat. § 256.98, subd. 1 (identifying acts or omissions "done with intent to defeat the purposes of sections 145.891 to 145.897 . . . *and* child care assistance programs"). Irby argues for a "joint" reading, while the State argues for a "several" reading.[8] We acknowledge that "and" is most frequently used in the joint sense. For example, in *Reimringer v. Anderson*, we held that "unlawfully and in bad faith" unambiguously constituted two elements—"unlawfully" and "in bad faith"—as the list was joined with the word "and" and the two elements "require[d] different evidentiary proof." 960 N.W.2d 684, 688 (Minn. 2021).[9] Under a joint reading, the word "and" in the first paragraph of the statute would require defendants to act with an "intent to defeat the purposes of" at least

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[8] When "and" requires the occurrence of all items in a list, it may be described as joint, inclusive, or conjunctive; likewise, when "and" requires the occurrence of only one or more items in a list, it may be described as several, exclusive, or disjunctive. For clarity we use "joint" and "several" throughout our opinion.

[9] *See also Back v. State*, 902 N.W.2d 23, 28 (Minn. 2017) (interpreting "and" as conjunctive); *State v. Nelson*, 842 N.W.2d 433, 444 (Minn. 2014) (same), *superseded by statute*, Act of May 13, 2014, ch. 242, § 3, 2014 Minn. Laws 804, 804 (codified as amended at Minn. Stat. § 609.375 (2020)); *Lennartson v. Anoka-Hennepin Indep. Sch. Dist. No. 11*, 662 N.W.2d 125, 130 (Minn. 2003) (same).

five of the nine programs: The Maternal and Child Nutrition Act; the pre-1997 MFIP; the AFDC program; "child care assistance programs"; and at least one of "chapters 258B, 256D, 256J, 256K, or 256L." Minn. Stat. § 256.98, subd. 1.

But in limited circumstances, "and" can be read in a several, that is, disjunctive, sense based on context and the specific way the word is used. *Maytag Co. v. Comm'r of Taxation*, 17 N.W.2d 37, 39 (Minn. 1944); *Eberle v. Miller*, 212 N.W. 190, 191 (Minn. 1927), *overruled in part on other grounds by Johnson v. Iverson*, 222 N.W. 508 (Minn. 1928); *see also* Bryan A. Garner, *A Dictionary of Modern Legal Usage* 56 (3d ed. 2011) (acknowledging that courts "recognize that *and* in a given context means *or*"). These occasions are rare, and we presume that "and" is used in the joint sense unless the specific context of a statute unambiguously proves otherwise. If this were one of those rare occasions, as the State argues, the "and" would require a defendant to act with the "intent to defeat the purposes of" one or more of the listed programs.

Because we must consider the proposed interpretations in the context of the statute as a whole, we do not limit our analysis to a single word. Minnesota Statutes § 256.98 prohibits three distinct types of conduct, described in subdivision 1(1)–(3), when done with the requisite intent.[10] The charges against Irby allege that he obtained public assistance in

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[10] Irby was convicted under subdivision 1(1). But the required intent that Irby challenges applies equally to paragraphs (1) through (3) in subdivision 1. The statute requires the defendant to commit an act or omission with the "intent to defeat the purposes of sections 145.891 to 145.897, the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC program formerly codified in sections 256.72 to 256.871, chapters 256B, 256D, 256J, 256K, or 256L, and child care assistance programs." Minn. Stat. § 256.98, subd 1.

a fraudulent manner in violation of subdivision 1(1) of Minn. Stat. § 256.98. Subdivision 1(2) prohibits aiding and abetting a recipient of, or applicant for, public assistance in disposing of property without the consent of the county. Subdivision 1(3) prohibits a subsidized childcare provider from "obtain[ing]. . . payments to which the individual is not entitled as a provider of subsidized child care." *See, e.g.*, *Kind Heart Daycare, Inc. v. Comm'r of Hum. Servs.*, 905 N.W.2d 1, 6 (Minn. 2017) (describing charges brought against a subsidized childcare provider for violating Minn. Stat. § 256.98, subd. 1(3), by falsely billing for services). Yet when a subsidized childcare provider obtains payments to which he or she is not entitled, the provider cannot do so with the intent to defeat the purpose of, for example, the Maternal and Child Nutrition Act. That Act provides food aid directly to needy individuals—there is no way for a childcare provider to apply for or obtain this aid.[11] Irby's proposed interpretation of the statutory language would effectively read subdivision 1(3) out of existence because subsidized childcare providers could *never* have the intent required. Because Irby's proposed interpretation fails to give effect to all the statute's provisions, it is unreasonable. *See Strobel*, 932 N.W.2d at 309; *Riggs*, 865 N.W.2d at 683.

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[11] One also cannot commit an act or omission with an intent to defeat the purposes of the former MFIP and the AFDC program—which are among the listed programs—because those programs have not *existed* for more than two decades. The former MFIP was repealed in 1998 and 1999. Act of Apr. 21, 1998, ch. 407, art. 6, § 118, 1998 Minn. Laws 1989, 2234; Act of May 13, 1999, ch. 159 § 154, 1999 Minn. Laws 763, 869. It was replaced by a newer program, also called MFIP, codified in chapter 256J. Minn. Stat. § 256J.01 (2020). The AFDC program was repealed in 1997. Act of Apr. 30, 1997, ch. 85, § 74, 1997 Minn. Laws 586; *Greene v. Comm'r of Minn. Dep't of Hum. Servs.*, 755 N.W.2d 713, 717 (Minn. 2008) (explaining that a federal block grant program replaced AFDC).

By contrast, the interpretation proposed by the State gives effect to all provisions of the wrongfully obtaining assistance statute.

For all the reasons discussed above, we conclude that the only reasonable interpretation of the statutory language is that it requires proof that a defendant acted with the "intent to defeat the purposes of" any one or more of the public assistance programs listed in Minn. Stat. § 256.98, subd. 1.[12]

II.

Having determined the proper interpretation of section 256.98, subdivision 1, we now "conduct 'a painstaking analysis of the record' " to ensure that the evidence supports the verdict. *State v. Powers*, 962 N.W.2d 853, 858 (Minn. 2021) (quoting *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989)). In doing so, we view the evidence in a light most favorable to the verdict. *Id.*

Irby argues that the State presented insufficient evidence that he intended to defeat the programs for which he applied. Intent is a state of mind; it is frequently proven with circumstantial evidence. *State v. McInnis*, 962 N.W.2d 874, 890 (Minn. 2021); *Reed v.*

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[12] Irby argues that interpreting Minn. Stat. § 256.98, subd. 1, in a several sense would require us to hold the plain language of the statute to be absurd and rewrite it. Irby claims that this would be a violation of his due process rights. But our analysis relies on the whole-statute canon of interpretation discussed in *Riggs*, 865 N.W.2d at 683, not the absurdity principle discussed in *State v. Ortega-Rodriguez*, 920 N.W.2d 642, 646–47 (Minn. 2018). Because the language of the statute is unambiguous, consideration of extrinsic sources is neither necessary nor permitted. *Lapenotiere*, 916 N.W.2d at 357. Moreover, because our interpretation does not expand *narrow or precise* language, we need not address Irby's due process argument. In any event, Irby did not raise this issue until after we granted review, thereby forfeiting any due process arguments. *See State v. Ali*, 895 N.W.2d 237, 246 (Minn. 2017) (holding that a constitutional issue raised for the first time on appeal to our court is forfeited).

State, 925 N.W.2d 11, 20 n.5 (Minn. 2019). To prove intent, it is permissible for the jury to "infer that a person intends the natural and probable consequences of his actions." *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997). Under the two-step circumstantial evidence test, we must identify the circumstances proved and then determine whether the circumstances proved, as a whole, are " 'consistent with guilt and inconsistent with any rational hypothesis other than guilt.' " *McInnis*, 962 N.W.2d at 891 (quoting *State v. Petersen*, 910 N.W.2d 1, 7 (Minn. 2018)).

The circumstances proved show that Irby received aid under two of the programs listed in section 256.98: Medical Assistance under chapter 256B and the MFIP under chapter 256J. In applying for these benefits, Irby made false statements about his income and his assets. To support his applications, Irby submitted paperwork allegedly completed by a person who did not exist. Irby's false statements were broad and found in multiple places in each application that he filed. Irby repeated these falsities on separate applications submitted over the course of more than 5 years.

These circumstances are consistent with guilt and inconsistent with any rational hypothesis other than guilt. Although Irby testified that his false statements were inadvertent and he was not trying to deceive the State, "a defendant's statements as to his intentions are not binding on the jury if his acts demonstrated a contrary intent." *Cooper*, 561 N.W.2d at 179. Irby made numerous false statements in his applications, and these statements were specific, untrue, and repeated to the point that it is not rational to believe that they were inadvertent. Viewed in a light most favorable to the verdict, the evidence proves beyond a reasonable doubt that Irby acted with an intent to defeat the purposes of

the aid programs for which he applied, and it is inconsistent with any rational hypothesis other than guilt.

CONCLUSION

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

Affirmed.