STATE OF MINNESOTA

IN SUPREME COURT

A20-0361

Court of Appeals

Hudson, J.
Concurring, Gildea, C.J., Anderson, Thissen, JJ.

State of Minnesota,

Respondent,

vs.

Filed: August 23, 2023
Office of Appellate Courts

Rarity Shemeire Abdul Lampkin,

Appellant.

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

Kathryn M. Keena, Dakota County Attorney, Heather Pipenhagen, Assistant County Attorney, Hastings, Minnesota, for respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Michael McLaughlin, Assistant State Public Defender, Saint Paul, Minnesota, for appellant.

S Y L L A B U S

1. The phrase "offense against the person" in Minnesota's nonlethal self-defense statute, Minn. Stat. § 609.06, subd. 1(3) (2022), refers to offenses carrying the threat of bodily harm.

2. The State presented sufficient evidence to sustain defendant's conviction for felony domestic assault-harm, Minn. Stat. § 609.2242, subds. 1(2), 4 (2022).

Affirmed.

O P I N I O N

HUDSON, Justice.

Appellant Rarity Shemeire Abdul Lampkin was convicted of felony domestic assault-harm under Minn. Stat. § 609.2242, subds. 1(2), 4 (2022). On appeal, Lampkin argues that the evidence is insufficient to support his conviction because the State failed to prove his intent to commit bodily harm beyond a reasonable doubt. Lampkin also argues that the district court plainly erred by instructing the jury that he could use reasonable force to resist an "assault against the person" rather than more broadly to resist any "offense against the person." In a precedential opinion, the court of appeals held that sufficient evidence supports Lampkin's conviction. But the court of appeals concluded that the self-defense jury instruction was erroneous because the use of nonlethal self-defense does not require a person to resist an offense carrying the threat of bodily harm. Nevertheless, the court of appeals held that the jury instruction error was not plain and affirmed Lampkin's conviction.

We conclude that the use of nonlethal self-defense under Minn. Stat. § 609.06, subd. 1(3) (2022), requires a person to resist an offense carrying the threat of bodily harm. We further conclude that, on the facts of this case, the district court's use of "assault against the person" in the challenged jury instruction was not error. Finally, we agree with the

court of appeals that the evidence is sufficient to support Lampkin's conviction. We therefore affirm the decision of the court of appeals, but on different grounds.

FACTS

In October 2018, Lampkin was in a romantic relationship with L.W., and they were living together in an apartment with L.W.'s three children. At that time, L.W. was 8 months pregnant with Lampkin's child.

On October 8, 2018, Lampkin left the apartment after he and L.W. got into an argument. Lampkin returned to the apartment the next morning to retrieve a safe, which contained $10,000 in cash from Lampkin's business. As Lampkin tried to leave the apartment with the safe, L.W. began to physically fight him by pushing and hitting him. Lampkin was able to leave their third-floor apartment, but L.W. followed him down the stairs and through the hallway of the apartment building. L.W. then hit Lampkin, which caused him to drop the safe. Lampkin picked the safe up and proceeded to the building's exit door.

Surveillance video captured the ensuing struggle at the exit door. L.W. pulled at and pushed against Lampkin and used her body to block him from getting out the exit door with the safe. L.W. also grabbed onto the door's crossbar, pulling it to keep the door closed while she maintained her position between the door and Lampkin, who was behind her and attempting to leave the building.

Lampkin was able to get past L.W. and briefly exited the building without the safe. Moments later, however, he returned inside to retrieve the safe. L.W. continued to block Lampkin from leaving the building. Lampkin then pulled L.W. from behind, causing her

to let go of the door's crossbar and fall to the ground. Lampkin took the safe and left the building.

L.W.'s daughter called 911 and reported that "my dad is fighting my mom." Police officers arrived at the scene after Lampkin had left and discovered L.W. near the exit door with a ripped shirt. L.W. told a responding officer that "she had been pushed down by her boyfriend" and that he "grabbed her from the door and threw her onto the ground." L.W. was taken by paramedics to a hospital, where she similarly told her physician that she "got in a fight with her significant other and was pushed down twice."

Lampkin was charged with felony domestic assault-harm based on two prior domestic assault convictions.[1] Minn. Stat. § 609.2242, subds. 1(2), 4. A jury trial was held, during which L.W. testified for the State and took responsibility for the physical altercation with Lampkin, stating that she "initiated it" and "shouldn't have put [her] hands on him."

Lampkin requested a self-defense jury instruction, arguing that "[t]here was evidence that [L.W.] assaulted [Lampkin] and that she was attempting to prevent him

[1] The Legislature has defined two distinct forms of domestic assault. Both are misdemeanors but rise to a felony if there are two or more prior domestic violence-related convictions within the past 10 years. Minn. Stat § 609.2242, subd. 4. The first form of domestic assault is assault-harm, where a person "intentionally inflicts or attempts to inflict bodily harm upon another." Minn. Stat. § 609.2242, subd. 1(2). The second form of domestic assault is assault-fear, where a person "commits an act with intent to cause fear in another of immediate bodily harm or death." Minn. Stat. § 609.2242, subd. 1(1). We have held that assault-harm is a general intent crime, while assault-fear is a specific intent crime. *See State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016); *State v. Fleck*, 810 N.W.2d 303, 312 (Minn. 2012).

from leaving the building." In pertinent part, the district court provided the following self-defense instruction to the jury:

> The defendant asserts the defense of self-defense. "Self-defense" means that the person used reasonable force against [L.W.] to resist an *assault against the person* and such an offense was being committed or the person reasonably believed that it was.
>
> It is lawful for a person who is resisting an *assault against his person* and who has reasonable grounds to believe that bodily injury is about to be inflicted upon the person to defend from an attack. In doing so, the person may use all force and means that the person reasonably believed to be necessary and that would appear to a reasonable person in similar circumstances to be necessary to prevent an injury that appears to be imminent.

(Emphasis added.) The district court's jury instruction largely tracked the model jury instruction for self-defense, except that in the model jury instruction, the phrase "offense against the person" is used in lieu of the italicized "assault against the person." *See* 10 Minn. Dist. Judges Ass'n, *Minnesota Practice—Jury Instruction Guides, Criminal*, CRIMJIG 7.13 (6th ed. 2022). The model jury instruction defines an "offense against the person" as "an offense of a physical nature with the potential to cause bodily harm." *Id.* Neither party objected to the jury instruction. The jury found Lampkin guilty as charged.

Lampkin appealed, raising two arguments. First, Lampkin claimed that the evidence is insufficient to support his conviction because the State failed to prove his intent to inflict bodily harm on L.W. beyond a reasonable doubt. Second, Lampkin argued that the district court plainly erred when it instructed the jury on self-defense because the instruction stated that he could only use reasonable force to defend against an "assault" rather than any "offense against the person."

In a precedential opinion, the court of appeals affirmed Lampkin's conviction. *State v. Lampkin*, 978 N.W.2d 286, 297 (Minn. App. 2022). The court of appeals first determined that the "evidence sufficiently supports the jury's finding that Lampkin intended the act that caused bodily harm." *Id.* at 290. The court of appeals concluded, however, that the district court erred in instructing the jury on self-defense because the instruction wrongly asked the jury whether Lampkin was resisting an "assault" against himself and whether Lampkin reasonably believed that bodily injury was about to be inflicted on him. *See id.* at 291. In its analysis, the court of appeals looked to the self-defense statute, which permits reasonable force to be used in self-defense by any person in "resisting or aiding another to resist an offense against the person." *Id.* (quoting Minn. Stat. § 609.06, subd. 1(3)). The court of appeals concluded that the plain language of an "offense against the person" does not require that the resisted offense carry the threat of bodily harm. *Id.* The court of appeals also looked to our precedent, as well as its own precedent, and concluded that language from our decisions supported its plain language reading of Minn. Stat. § 609.06, subd. 1(3). *See id.* at 292–94.

Turning to the facts, the court of appeals recognized that L.W.'s conduct arguably constituted false imprisonment or attempted false imprisonment when she blocked Lampkin from leaving the apartment building, and at that time, she was engaging in an "offense against the person" that he was justified in resisting with reasonable force even though he may not have feared bodily harm. *See id.* at 291. The court of appeals concluded that even though false imprisonment under Minnesota law does not require a threat of bodily harm, a person can still employ self-defense because section 609.06,

subdivision 1(3), allows self-defense to be used against any "offense against the person," not just those carrying the threat of bodily harm. *See id.* at 295–96. Thus, the court of appeals held that the district court erred in providing an unduly restrictive self-defense instruction with an element of assault and bodily harm. *Id.*

Nevertheless, because the plain-error standard of review applied, the court of appeals upheld Lampkin's conviction because the district court's error was not plain. *Id.* at 296. The court of appeals observed that "caselaw so commonly restated the bodily-harm element without the qualification for other types of offenses against the person that the jury instruction guide relied on by district judges and practitioners recommended the unqualified vernacular." *Id.* Given the lack of clarification in the law, the court of appeals could not conclude that the district court's error was "so clear or obvious at the time of the appeal" as to be plain. *Id.*

We granted Lampkin's petition for further review.

ANALYSIS

Lampkin argues that the district court committed reversible plain error in instructing the jury on self-defense, and that the evidence presented at trial is insufficient to sustain his conviction. We address each argument in turn.

I.

Lampkin first argues that the district court committed reversible plain error in instructing the jury on self-defense. Specifically, Lampkin claims that Minn. Stat. § 609.06, subd. 1(3), permits him to use self-defense to broadly resist an "offense against the person," and a threat of bodily harm is not required. In Lampkin's view, the district

court's use of "assault against the person" in the jury instruction unduly restricted the category of offenses against which he was entitled to use self-defense. Lampkin's argument hinges on his interpretation of Minn. Stat. § 609.06, subd. 1(3). "Statutory interpretation is a question of law that we review de novo." *State v. Stay*, 935 N.W.2d 428, 430 (Minn. 2019).

All parties agree that plain-error review applies because Lampkin requested a jury instruction on self-defense and failed to object to the form of the instruction. For Lampkin to succeed on plain-error review, he must demonstrate (1) an error, (2) that is plain, and (3) affected his substantial rights. *See State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012). If these three prongs are met, the remaining question is whether we must "address the error to ensure fairness and the integrity of the judicial proceedings." *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998).

A.

"While district courts have broad discretion to formulate appropriate jury instructions, a district court abuses its discretion if the jury instructions confuse, mislead, or materially misstate the law." *State v. Taylor*, 869 N.W.2d 1, 14–15 (Minn. 2015) (citation omitted) (internal quotation marks omitted). To evaluate Lampkin's claim that the jury instruction in this case materially misstated the law, we must first address the proper use of nonlethal self-defense under Minn. Stat. § 609.06, subd. 1(3).

Nonlethal self-defense in Minnesota is codified at Minn. Stat. § 609.06, subd. 1, which provides that "reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably

believes them to exist."[2] Relevant here, reasonable force is permitted "when used by any person in resisting or aiding another to resist an offense against the person." Minn. Stat. § 609.06, subd. 1(3).

If we were interpreting Minn. Stat. § 609.06, subd. 1(3), as a matter of first impression, we would start by analyzing the text of the statute to determine whether the statute is ambiguous. *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015). If the statute is unambiguous, we give effect to the plain language of the statute; if the statute is ambiguous, then we "may apply canons of construction to resolve the ambiguity." *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019) (citations omitted) (internal quotation marks omitted).

But we are not writing on a blank slate here. "Once we have interpreted a statute, that prior interpretation guides us in reviewing subsequent disputes over the meaning of the statute." *Else v. Auto-Owners Ins. Co.*, 980 N.W.2d 319, 329 (Minn. 2022) (citation omitted) (internal quotation marks omitted). Likewise, when determining if a jury instruction correctly states the law, "we analyze the criminal statute *and* the case law under it." *Taylor*, 869 N.W.2d at 15 (emphasis added). We believe our case law definitively answers the question presented in this case.

As the court of appeals recognized, pointing to our prior decision in *State v. Johnson*, 152 N.W.2d 529, 532 (Minn. 1967), we have interpreted Minn. Stat. § 609.06, subd. 1(3), as codifying the doctrine of self-defense at common law. *See Lampkin*,

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[2] This case does not involve the use of *lethal* force in self-defense, which is codified separately in Minn. Stat. § 609.065 (2022). That statute requires the user of lethal force to be under the reasonable belief of "great bodily harm or death" to the user or another, or in preventing the commission of a felony in the user's place of abode. Minn. Stat. § 609.065.

978 N.W.2d at 292–93 (citing *Johnson*, 152 N.W.2d at 532). In *Johnson*, we recognized that the Advisory Committee Comment itself highlighted that the self-defense statute contained at section 609.06 was intended to "state[] the present Minnesota law as expressed in *State v. Shippey*, 10 Minn. 223 (Gil. 178) and *State v. Tripp*, 34 Minn. 25, 24 N.W. 290." *Johnson*, 152 N.W.2d at 532. Those and the other cases cited in *Johnson* as representative of the common-law self-defense doctrine in Minnesota confirm that at common law, the use of self-defense required the threat of bodily harm. *See Johnson*, 152 N.W.2d at 532 (citing *State v. Tripp*, 24 N.W. 290, 290 (Minn. 1885) ("The court, in substance, instructed the jury, among other things, that a man has no right to commit an assault with intent to do great bodily harm to another for a wrong that he *has not reasonable ground to believe to be dangerous to himself*. There was certainly no error in this." (emphasis added)); *State v. Shippey*, 10 Minn. 223, 231 (Minn. 1865) ("To justify [self-defense] there must be at least an apparent necessity to ward off by force some *bodily harm*." (emphasis added)); *Germolus v. Sausser*, 85 N.W. 946, 947 (Minn. 1901) ("An act, otherwise criminal, is justifiable when it is done to protect the person committing it, or another whom he is bound to protect, from imminent *personal injury*, the act appearing reasonably necessary to prevent the injury, nothing more being done than is reasonably necessary." (emphasis added))).

Minnesota-specific common law on this issue is consistent with the common law on self-defense dating back to England. "In England, the justification of self-defense evolved as an exception to the general rule, which prohibited persons from engaging in self-help that costs human life." Cynthia V. Ward, *"Stand Your Ground" and Self-Defense*, 42 Am.

J. Crim. L. 89, 97 (2015). This exception was construed narrowly because the use of force against another, even in self-defense, was considered a breach of the state's monopoly on the use of force. *See* Benjamin Levin, Note, *A Defensible Defense?: Reexamining Castle Doctrine Statutes*, 47 Harv. J. on Legis. 523, 528–29 (2010) (noting that "[s]elf-defense was not viewed favorably by English jurists"). Therefore, "[w]hatever the moral quality of self-defense, the common law tilted in favor of the preservation of human life and the maintenance of public order." Darrell A. H. Miller, *Self-Defense, Defense of Others, and the State*, 80 Law & Contemp. Probs. 85, 89 (2017); *see also* Semayne's Case (1604) 77 Eng. Rep. 194, 195 (KB) (Sir Edward Coke writing that "although a man kills another in his defence . . . without any intent, yet it is felony . . . for the great regard which the law has to a man's life").

Accordingly, at common law, the general rule was that "a person may use reasonable force to protect himself against one who threatens him with *physical injury*." Note, *Justification for the Use of Force in the Criminal Law*, 13 Stan. L. Rev. 566, 566–67 (1961) (citing Rollin M. Perkins, Perkins on Criminal Law 886 (1st ed. 1957)) (emphasis added). For example, Blackstone wrote that "if the party . . . be forcibly attacked in his person or property, it is lawful for him to repel force by force," for the law permits "a man immediately to oppose one violence with another." 3 William Blackstone, Commentaries *3–4; *see also* 4 William Blackstone, Commentaries *184 ("self-defense . . . is that whereby a man may protect himself from an assault, or the like, in the course of a sudden brawl or quarrel").

Treatises on self-defense at common law similarly describe self-defense as justified when faced with a threat of bodily harm. *See* Wayne R. LaFave, 2 Substantive Criminal Law § 10.4 (3d ed. 2018) ("One who is not the aggressor in an encounter is justified in using a reasonable amount of force against his adversary when he reasonably believes (a) that he is in immediate danger of unlawful bodily harm from his adversary and (b) that the use of such force is necessary to avoid this danger."); 33 Am. Jur. 2d *Proof of Facts* 211 § 1 ("[A] person may use force against another to protect himself from bodily harm or offensive contact which he believes will result from conduct that is apparently intended to cause injury or offensive contact, or is such as to put him in apprehension thereof."); Elliott Anthony, *Treatise on the Law of Self Defense, Trial by Jury in Criminal Cases, and New Trials in Criminal Cases* 3 (1887) ("To justify [self-defense] there must be at least an apparent necessity to ward off by force some bodily harm.").

In this case, Lampkin contends that Minn. Stat. § 609.06, subd. 1(3), permits the use of nonlethal self-defense to resist any "offense against the person," even if that offense does not carry the threat of bodily harm. But Lampkin's interpretation of "offense against the person" would have us interpret that phrase in a vacuum, divorced from its statutory context. But we do not interpret statutory phrases in isolation because "the meaning of a phrase often depends on how it is being used in the context of the statute." *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020). Here, the phrase "offense against the person" is being used as the triggering conduct for a claim of self-defense and appears within the context of a statute codifying the common-law self-defense doctrine. *See Johnson*, 152 N.W.2d at 532. And as described above, the triggering conduct for a claim

of self-defense at common law was force carrying the threat of bodily harm. Thus, in context and as guided by our precedent, the phrase "offense against the person" in Minn. Stat. § 609.06, subd. 1(3), should be interpreted as an act carrying the threat of bodily harm.

But that is not all. Since *Johnson*, we have repeatedly stated that nonlethal self-defense may only be used to resist an offense carrying the threat of bodily harm. Just 5 years after the enactment of Minn. Stat. § 609.06, subd. 1(3), we approved of a self-defense jury instruction that asked the jury to consider whether the force used by the defendant was necessary to resist the threat of bodily harm—and more specifically, an "*assault*." *State v. Baker*, 160 N.W.2d 240, 242–43 (Minn. 1968) (emphasis added). Two years later, we held that a similar instruction was "legally sound," *State v. Love*, 173 N.W.2d 423, 426–27 (Minn. 1970), and 8 years after that, we concluded that a similar instruction "correctly state[d] the law," *State v. Jones*, 271 N.W.2d 534, 539–40 (Minn. 1978). And as recently as 2014, we explained that a person may use nonlethal self-defense when he or she is under the "actual and honest belief that he or she was in imminent danger of . . . *bodily harm*." *State v. Devens*, 852 N.W.2d 255, 258 (Minn. 2014) (alteration in original) (citation omitted) (internal quotation marks omitted) (emphasis added).[3]

Simply put, we have never suggested that self-defense can be invoked to resist an offense that does not carry the threat of bodily harm. In fact, we have steadfastly

[3] *Devens* was quoting *State v. Basting*, 572 N.W.2d 285–86 (Minn. 1997), and elided the court's full recitation that self-defense required "the defendant's actual and honest belief that he or she was in imminent danger of *death or* great bodily harm." *Basting*, 572 N.W.2d at 285 (emphasis added).

maintained the opposite: that nonlethal self-defense can only be invoked when a person is threatened with bodily harm.

The doctrine of *stare decisis* "directs us to adhere to our former decisions in order to promote the stability of the law and the integrity of the judicial process." *State v. Willis*, 898 N.W.2d 642, 647 n.7 (Minn. 2017) (citation omitted) (internal quotation marks omitted). We have long held that "[w]hen a judicial interpretation of a statute has remained undisturbed, it becomes part of the terms of the statute itself." *Wynkoop v. Carpenter*, 574 N.W.2d 422, 426 (Minn. 1998) (citing *Roos v. City of Mankato*, 271 N.W. 582, 584 (Minn. 1937)). Indeed, "[t]he doctrine of *stare decisis* has special force in the area of statutory interpretation because the Legislature is free to alter what we have done." *Koehnen v. Flagship Marine Co.*, 947 N.W.2d 448, 453 (Minn. 2020) (alteration in original) (citation omitted) (internal quotation marks omitted).

We have reiterated the threat-of-bodily-harm requirement of self-defense in our case law for decades; yet, the Legislature has never amended Minn. Stat. § 609.06, subd. 1(3). Because our interpretation of Minn. Stat. § 609.06, subd. 1(3), has been undisturbed for nearly 60 years, the threat-of-bodily-harm requirement is part and parcel of the statute. *See Else*, 980 N.W.2d at 328–29 (holding that a statute incorporated a judicial interpretation when the interpretation had been "unchallenged . . . for the last 60 years").

Lampkin attempts to sidestep the *stare decisis* implications of his interpretation by contending that we have referenced a threat-of-bodily-harm prerequisite to the use of self-defense only because the facts of every other case involved the threat of bodily harm. It is true that we have never analyzed a claim of self-defense made by a defendant who was

not faced with a threat of bodily harm. But we have never purported to cabin our formulation of the nonlethal self-defense doctrine to cases involving the specific factual scenario of a defendant faced with a threat of bodily harm. Instead, we have plainly stated, without qualification, that self-defense under Minn. Stat. § 609.06, subd. 1(3), requires "the defendant's actual and honest belief that he or she was in imminent danger of . . . bodily harm." *Devens*, 852 N.W.2d at 258. Lampkin's attempt to factually distinguish this case from our robust body of nonlethal self-defense case law is unpersuasive.[4]

Lampkin next suggests that our precedent is simply wrong, and he argues that the ordinary and technical meaning of the phrase "offense against the person" in the statute includes offenses that do not necessarily carry the threat of bodily harm. But "an argument that we got something wrong—even a good argument to that effect—cannot by itself justify scrapping settled precedent." *Kimble v. Marvel Ent., LLC*, 576 U.S. 446, 455 (2015). Rather, we require a "compelling reason" to overrule our precedent. *Wheeler v. State*, 909 N.W.2d 558, 565 (Minn. 2018). Lampkin offers no compelling reason for us to depart from our decades of precedent.

We are convinced that interpreting Minn. Stat. § 609.06, subd. 1(3), in accordance with the common-law self-defense doctrine "effectuate[s] the intent of the legislature." *Stay*, 935 N.W.2d at 430 (citation omitted) (internal quotation marks omitted). We

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[4] Other opinions from the court of appeals have rejected arguments similar to Lampkin's by noting that our precedent squarely forecloses such an argument. *See State v. Long*, No. A15-2095, 2016 WL 6826243, at *4 (Minn. App. Nov. 21, 2016); *State v. Hanson*, No. A15-0829, 2016 WL 2945935, at *5 (Minn. App. May 23, 2016).

accordingly conclude that the phrase "offense against the person" in Minn. Stat. § 609.06, subd. 1(3), refers to offenses carrying the threat of bodily harm.[5] We reverse the court of appeals' holding to the contrary.

B.

We must next determine whether the specific instruction in this case was appropriate in light of the rule we have just articulated. District courts "are afforded broad discretion and considerable latitude in choosing the language of jury instructions." *State v. Smith*, 674 N.W.2d 398, 400 (Minn. 2004). However, "a district court abuses its discretion if the jury instructions confuse, mislead, or materially misstate the law." *Taylor*, 869 N.W.2d at 14–15. We "will not reverse where jury instructions overall fairly and correctly state the applicable law." *Gulbertson v. State*, 843 N.W.2d 240, 247 (Minn. 2014) (citation omitted) (internal quotation marks omitted).

Before the district court, Lampkin requested a self-defense jury instruction on the theory that L.W. "attempt[ed] to prevent him from leaving the building" and "assaulted" him. Critically, Lampkin never argued that he was threatened with bodily harm when he was confined by L.W. Rather, the only time that Lampkin claimed that he was threatened with bodily harm was when he was "assaulted" by L.W. Therefore, the only "offense against the person" carrying the threat of bodily harm that Lampkin resisted was assault.

Assault is indeed an offense against the person carrying the threat of bodily harm, Minn. Stat. § 609.02, subd. 10 (2022), as the district court explained in its jury instruction

[5] Our holding should be read to maintain the status quo of the law on nonlethal self-defense as expressed in our precedent.

on "domestic assault." And because assault was a proper characterization for L.W.'s conduct toward Lampkin, and the only "offense against the person" carrying the threat of bodily harm that Lampkin resisted was concededly assault, the district court's use of the word "assault" did not change the meaning of the self-defense instruction. Rather, the district court simply used its "broad discretion and considerable latitude" to tailor the instruction to the facts of this case. *Smith*, 674 N.W.2d at 400.

Moreover, Lampkin ignores that when the facts of the case warranted it, we have previously approved self-defense jury instructions that asked whether the defendant was resisting an "assault." *Jones*, 271 N.W.2d at 539–40; *Love*, 173 N.W.2d at 426–27; *Baker*, 160 N.W.2d at 242–43. Here, the facts of the case similarly warranted the tailoring of the model jury instruction to use the term "assault."

We emphasize, however, that we are not holding that "offense against the person" in Minn. Stat. § 609.06, subd. 1(3), means, or is limited to, an "assault." In some cases, the term "assault" may not be an appropriate substitute for language in the model jury instruction. For example, a person might falsely imprison another, but the confinement does not rise to the level of an assault. Nonetheless, the person confined may still be under the "actual and honest belief that he or she [is] in imminent danger of . . . bodily harm." *Devens*, 852 N.W.2d at 258. In that case, assuming all other elements of self-defense are met, the person confined would be privileged to use nonlethal self-defense, and it would

be error to instruct a jury that the person confined could use self-defense to resist only an "assault."[6]

But that is not this case. Here, Lampkin argued to the district court that he was only threatened with bodily harm when he was "assaulted" by L.W. It is not error for the district court to modify a model jury instruction "to fit the contentions of the parties." *State v. Edwards*, 717 N.W.2d 405, 411–12 (Minn. 2006); *see also State v. Thao*, 875 N.W.2d 834, 842 (Minn. 2016) ("Although district courts may favor pattern jury instructions, their use is not required."). On the facts of this case, the district court "overall fairly and correctly state[d] the applicable law." *Gulbertson*, 843 N.W.2d at 247 (citation omitted) (internal quotation marks omitted).

II.

Lampkin next argues that the evidence presented at trial is insufficient to support his conviction because the State failed to prove his intent to commit bodily harm beyond a reasonable doubt. Intent is generally proven by circumstantial evidence. *See State v.*

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[6] This hypothetical illustrates why it may be problematic to substitute the words of the model jury instruction for a particular offense against the person. "Offense against the person" is broader than just an assault. In fact, our precedent does not require a user of self-defense to resist a particular, identified offense, but rather only requires a user of self-defense to resist the threat of bodily harm. Thus, although we affirm the jury instructions here based on the specific facts presented, we urge district courts to exercise caution in drafting jury instructions.

Relatedly, the court of appeals suggested that under our precedent, a victim of Minn. Stat. § 609.341, subd. 11 (2022) (sexual contact without bodily harm) would not be able to use self-defense to resist a groping. *See Lampkin*, 978 N.W.2d at 293. Not so: even if the groping did not actually lead to bodily harm, the victim might still have been under the actual and honest belief that at the time of the contact, the groping would lead to bodily harm. In that case, self-defense would be justified. *See Devens*, 852 N.W.2d at 258.

McAllister, 862 N.W.2d 49, 53 (Minn. 2015). We review a conviction based on circumstantial evidence in a two-step inquiry. First, we "winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury's verdict, resulting in a subset of facts that constitute 'the circumstances proved.' " *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017) (citation omitted). Second, we consider whether "the circumstances proved, when viewed as a whole, [are] consistent with a reasonable inference that the accused is guilty and inconsistent with any rational hypothesis except that of guilt." *Id.* at 601.

To prove that Lampkin committed domestic assault-harm, the State had to prove that Lampkin "intentionally inflict[ed] or attempt[ed] to inflict bodily harm" on L.W. Minn. Stat. § 609.2242, subd. 1(2). Assault-harm is a general intent crime. *State v. Fleck*, 810 N.W.2d 303, 309–10 (Minn. 2012). This general intent requirement means that although the State must prove that Lampkin "intended to do the physical act forbidden," the State does not need to prove that "[he] meant to or knew that [he] would violate the law or cause a particular result." *State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016) (citation omitted) (internal quotation marks omitted). Therefore, the State need only prove that Lampkin's application of force to L.W. was not done "accidentally or involuntarily." *Id.* at 831.

Resolving all questions of fact in favor of the jury's verdict, the State proved the following circumstances at trial through witness testimony and the surveillance video: on October 9, 2018, Lampkin attempted to take his safe from the apartment he shared with L.W. An argument ensued, and L.W.'s daughter called 911 and reported that "my dad is

fighting my mom." Lampkin took the safe and left the apartment, but L.W. followed him out of the apartment to the exit door of the apartment building. L.W. tried to stop Lampkin from leaving the apartment building by pulling him, pushing him, and using her body to block him from getting out of the exit door. Lampkin was able to exit the building but did so without the safe and came back inside for it. L.W. then held the arms on the crossbar of the door to keep Lampkin from leaving, after which he pulled L.W. from behind, causing L.W. to let go of the exit door's crossbar and fall to the ground. L.W. later told police and medical staff that Lampkin had pushed her to the ground twice.

These circumstances proved are consistent with a reasonable inference that Lampkin "intended to do the physical act forbidden," *id.* at 830, and inconsistent with the hypothesis that Lampkin acted "accidentally or involuntarily," *id.* at 831. Indeed, the theory that Lampkin acted "accidentally or involuntarily" is at odds with Lampkin's self-defense claim that he deliberately pulled L.W. from the exit door handle to escape her assault and confinement. Thus, the only rational hypothesis from the circumstances proved is that Lampkin "intentionally appl[ied] force to another person without [her] consent." *Id.* Any other hypothesis is not reasonable.

Lampkin contends that the circumstances proved by the State point to a rational hypothesis other than guilt: that he "intended a physical act that Minnesota deems to be lawful," namely, "reasonable force to resist interference with property and the person offense of false imprisonment." But for the general intent crime of assault-harm, the State does not need to prove that the defendant "meant to or knew that [he] would violate the law." *Id.* at 830. Any belief by Lampkin that his use of force against L.W. was legal is

irrelevant to the question of whether he "intentionally appl[ied] force to [L.W.] without [her] consent." *Id.* at 831. Because the circumstances proved are inconsistent with the hypothesis that Lampkin acted "accidentally or involuntarily," the State sufficiently proved Lampkin's intent.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals, but on different grounds.

Affirmed.

C O N C U R R E N C E

GILDEA, Chief Justice (concurring).

I agree with the majority that we should affirm Lampkin's conviction. I write separately, however, because we do not need to resolve whether the district court erred in instructing the jury. *Lipka v. Minn. Sch. Emps. Ass'n, Loc. 1980*, 550 N.W.2d 618, 622 (Minn. 1996) ("[J]udicial restraint bids us to refrain from deciding any issue not essential to the disposition of the particular controversy before us."). In my view, even if the jury instructions were erroneous, Lampkin has not demonstrated that any such error impacted his substantial rights. *See State v. Goelz*, 743 N.W.2d 249, 258 (Minn. 2007) ("If a defendant fails to establish that the claimed error affected his substantial rights, we need not consider the other factors.").

In this case, the jury instructions did not affect Lampkin's substantial rights because the evidence does not demonstrate a "reasonable likelihood that a properly instructed jury could have accepted [Lampkin's] claim of self-defense." *State v. Baird*, 654 N.W.2d 105, 114 (Minn. 2002). A self-defense claim in Minnesota requires the absence of a reasonable possibility of retreat to avoid the danger. *State v. Devens,* 852 N.W.2d 255, 258 (Minn. 2014). Even assuming the other self-defense elements are met, Lampkin exited the apartment building, demonstrating he had "somewhere safer to go." *State v. Glowacki*, 630 N.W.2d 392, 401 (Minn. 2001). And once he left the apartment building, it was his duty to retreat from the scuffle. *Id.* Instead of retreat, surveillance video shows that Lampkin reentered the apartment building and reengaged in a scuffle with L.W. Lampkin's decision to reenter the apartment building does not satisfy the duty to retreat requirement

of Minn. Stat. § 609.06, subd. 1(3) (2022). *See State v. Austin*, 332 N.W.2d 21, 24 (Minn. 1983) (holding that a defendant did not satisfy his duty to retreat when he had "[s]everal options for escape or avoidance of peril"). Accordingly, I would affirm Lampkin's conviction under the third prong of our plain error analysis and not reach the question of whether the district court erred.

ANDERSON, Justice (concurring).

I join in the concurrence of Chief Justice Gildea.

THISSEN, Justice (concurring).

I join in the concurrence of Chief Justice Gildea.