

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

MICHAEL TODD HINKKANEN,

Appellant.

No. 40509-1-II

UNPUBLISHED OPINION

Armstrong, J. — Michael Hinkkanen appeals his convictions for felony harassment, arguing that the State failed to prove he issued a true threat to two state troopers. Finding the evidence sufficient to support the convictions, we affirm.

FACTS

In June 2009, Michael Hinkkanen hit a car on the highway. Trooper Weaver arrived to investigate and found Hinkkanen sweating and smelling like alcohol. Trooper Weaver arrested, searched, and handcuffed Hinkkanen after Hinkkanen refused to take the field sobriety tests. Hinkkanen told Trooper Weaver, “I’m going to shoot you,” and cursed at him. Report of Proceedings (RP) at 19-20.

When Trooper Sills arrived, Trooper Weaver put Hinkkanen in the back of Trooper Sills’s patrol car and secured him with a shoulder and lap restraint. Hinkkanen continued cursing, yelling, and screaming while Trooper Sills advised him of his *Miranda*¹ rights.

¹ *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

Once in the car, Hinkkanen repeatedly beat his head against the window and the partition between the front and back seat, and kicked the car door. He moved around as if he was trying to get out of his handcuffs. He urinated and vomited in the patrol car. He continued to verbally abuse the officers, repeatedly telling them he was going to kill them. Eventually the officers tased him and restrained his feet.

The officers drove Hinkkanen to the hospital, stopping at one point to tell Hinkkanen to stop banging his head against the partition. At the hospital, the officers lifted Hinkkanen out of the car because he refused to get out. Throughout the trip and Hinkkanen's time at the hospital, Hinkkanen was swearing, cursing, and crying.

After the hospital medically cleared Hinkkanen, Trooper Sills drove him to jail. Hinkkanen continued cursing at Trooper Sills during the drive and threatened Trooper Sills and his family. Once at jail, the officers put Hinkkanen in a restraint chair because he was still behaving violently.

The jury convicted Hinkkanen of two counts of harassment with threats to kill and one count of driving under the influence.

ANALYSIS

Hinkkanen argues that the State failed to prove that his statements amounted to a true threat. We disagree.

I. Standard of Review

Evidence is sufficient to support a criminal conviction when a rational trier of fact could have found the defendant guilty beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). When considering a challenge to the sufficiency of the evidence, we view the

evidence in the light most favorable to the State. *Salinas*, 119 Wn.2d at 201. In other words, a defendant who challenges the sufficiency of the evidence ““admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.”” *State v. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970 (2004) (quoting *Salinas*, 119 Wn.2d at 201).

II. Sufficient Evidence of Harassment

A defendant is guilty of felony harassment when he knowingly threatens to cause bodily harm to another person immediately or in the future. RCW 9A.46.020(1)(a)(i). Threats are criminal only if they are true threats. *State v. Tellez*, 141 Wn. App. 479, 482, 170 P.3d 75 (2007). To prove that a threat is a true threat, the State must show that, in light of the circumstances, the speaker would reasonably foresee that others would interpret his words as demonstrating an “intent to inflict serious bodily injury or death.” *State v. Kilborn*, 151 Wn.2d 36, 48, 84 P.3d 1215 (2004).

Hinkkanen argues that no reasonable person could view his statements as true threats because they were “obvious blustering” and stated while he was extremely intoxicated. Br. of Appellant at 5. The circumstances and context of his repeated threats and demeanor show otherwise. Throughout Hinkkanen’s interaction with the officers, he was belligerent, violent, and issued escalating threats. He was uncooperative, repeatedly cursed at the officers, and repeatedly threatened to kill them and hurt their family members. He was also behaving violently: beating his head against the partition of the patrol car, kicking the car door, and moving as though trying to get out of the handcuffs. We are satisfied that a rational juror could find from Hinkkanen’s repeated threats and violent behavior that his threats were a serious expression of his intent to harm Trooper Weaver and Trooper Sills. Accordingly, we affirm his convictions.

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A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Armstrong, J.

We concur:

Quinn-Brintnall, J.

Penoyar, C.J.