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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1095**

State of Minnesota,
Respondent,

vs.

Theran Robert Stai,
Appellant.

**Filed June 11, 2012
Affirmed
Schellhas, Judge**

Beltrami County District Court
File No. 04-CR-10-3304

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

Timothy R. Faver, Beltrami County Attorney, Annie P. Claesson-Huseby, Chief
Assistant County Attorney, Bemidji, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Jodie L. Carlson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Chutich, Judge; and
Randall, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant argues that the evidence was insufficient to support his conviction of terroristic threats in violation of Minn. Stat. § 609.713, subd. 1 (2010). In a pro se supplemental brief, he expresses concerns about the voir dire process and the jury instructions. We affirm.

FACTS

Appellant Theran Stai began living with L.E. in 2007, and since then they have had an “[o]ff and on” romantic relationship. At some point before the events culminating in this case, L.E.’s son, W.C., began residing with L.E. At the time of trial, Stai was age 43, and L.E. was 72.

In connection with an incident that occurred on October 6, 2010, respondent State of Minnesota charged Stai with second-degree assault with a dangerous weapon in violation of Minn. Stat. §§ 609.222, subd. 1, 609.11 (2010). The state alleged that Stai threatened to cut L.E.’s throat with a knife and later amended its complaint to add a charge of terroristic threats in violation of Minn. Stat. § 609.713, subd. 1.

At trial, W.C.’s visiting public-health nurse, Mary Voss, testified that she visited W.C. at L.E.’s home on October 6, 2010. When Voss saw Stai sitting at the kitchen table looking “disheveled . . . [and] like he had been drinking,” she suggested to W.C. that they sit outside on a picnic table on the porch. Voss sat at the picnic table facing the door. She testified that she saw L.E. come to the door and that she looked extremely scared and said, “Theran is stabbing a knife in the table” or “He has a knife and he is stabbing it into

the table.” Voss then saw Stai come up behind L.E. with the knife in his hand and the door closed. Voss and W.C. moved across the street and called 911. A responding police officer testified that the knife held by Stai was slightly over seven inches long with a 3.25- to 3.5-inch blade.

L.E. testified that by October 6, Stai “had been drinking steadily for . . . four or five days with no sleep” and had a knife. L.E. was afraid of knives and Stai knew that. On the morning of October 6, L.E. asked Stai to put away his knife, but he did not. Instead, he placed his hand on the kitchen table and stabbed at it and the windowsill with his knife. L.E. testified that Stai threatened to cut her “from the bottom of [her] stomach to the throat.”

At trial, when asked whether Stai threatened her with the knife, L.E. testified as follows:

PROSECUTOR: On October 6, 2010, did Theran Stai threaten you with the knife?

L.E.: I am not too sure just how to answer that. . . . Because any time that we’d had a disagreement with the knife, he’d say, “I can cut you,” and I’d say, “Go ahead.” And there was a couple of times when he really scared me, but . . .

PROSECUTOR: On October 6, 2010, did he say, “I can cut you”?

L.E.: Yes.

PROSECUTOR: Where did he say he could cut you?

L.E.: From the middle to the—from the bottom of my stomach to the throat. . . . And that was another one of them stupid times when I—“If you are big enough.”

. . . .
PROSECUTOR: Now you talked about how he had threatened you with this knife before. Is that what you were saying?

L.E.: Uh-huh.

PROSECUTOR: So it wasn’t just on October 6—

L.E.: No.

PROSECUTOR: —2010? And you, I think, said something to the effect of, and sometimes he really scared you. Is that what I heard you say?

L.E.: Yes, he did. There were several times he scared the living daylights out of me.

PROSECUTOR: And was October 6, 2010, one of those days?

L.E.: Yes.

PROSECUTOR: And now on October 6, 2010, when he threatened to cut you with the knife, did you feel threatened?

L.E.: No. I am one of those dumb Irish girls. I ain't got enough sense to be frightened. . . .

PROSECUTOR: So you have learned to not say you are frightened of someone?

L.E.: Uh-huh.

L.E. testified that even though she was afraid of knives, she was not afraid of Stai, but she did admit that she believed she was in a dangerous situation and was glad when the police arrived.

Without objection, the state played a statement that L.E. gave to a responding police officer. In the statement, when asked whether Stai threatened her with a knife, L.E. said yes and said that “[Stai] would have probably stabbed me if you guys hadn't showed up.”

Stai testified on his own behalf and admitted that he drank alcohol on the evening of October 5. Stai testified that on the morning of October 6, he was tapping the knife on the kitchen table and did not intend to make anyone afraid of him, and, regardless, L.E. was “never afraid of me, anyway.” He claimed that he never threatened to cut L.E. but that L.E. “actually threatened to take my knife and cut my pee-pee off.” Stai also testified that he and L.E. were bantering and that L.E. saw him with a knife every day.

The jury found Stai guilty of terroristic threats and not guilty of second-degree assault. The district court stayed Stai's 18-month prison sentence, ordered him to serve 264 days in jail with credit for 164 days served, placed him on probation for five years, and fined him \$2,000.

This appeal follows.¹

DECISION

In assessing the sufficiency of the evidence, [an appellate court] view[s] the evidence in a light most favorable to the verdict to determine whether the facts in the record and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.

State v. Hanson, 800 N.W.2d 618, 621 (Minn. 2011) (quotations omitted). The reviewing court “must assume the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted).

Here, the jury convicted Stai of terroristic threats. The elements of the offense are (1) the defendant threatened (2) to commit a crime of violence (3) with the purpose to terrorize another or in reckless disregard of the risk of terrorizing another. Minn. Stat. § 609.713, subd. 1; *see State v. Schweppe*, 306 Minn. 395, 399–401, 237 N.W.2d 609, 613–15 (1975) (affirming conviction of felony terroristic threats when district court

¹ In his brief, Stai lists two issues: (1) whether his trial counsel was ineffective for failing to object to the admission of L.E.’s out-of-court statements, or alternatively, whether the district court plainly erred in admitting L.E.’s out-of-court statements and (2) whether sufficient evidence supported Stai’s conviction. But Stai withdrew the first issue in his reply brief.

instructed jury on these elements of charged offense). “[W]hether a given statement is a threat turns on whether the communication in its context would have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *Schweppe*, 306 Minn. at 399, 237 N.W.2d at 613 (quotations omitted). “For example, the statement, ‘I am going to kill you’ is objectively a threat to commit homicide, but the context may establish something else. Although the context might convey an actual intent to kill, it also may indicate anger, or frustration without an intent to kill, or even humor.” *State v. Bjergum*, 771 N.W.2d 53, 56 (Minn. App. 2009), *review denied* (Minn. Nov. 17, 2009).

Stai argues that his statement that he would cut L.E. was not a threat because, taken in context, L.E. and Stai were having an argument during which L.E. threatened to cut off his penis. Stai argues that he and L.E. were merely “trading barbs using salty language.” But viewing the evidence in the light most favorable to the verdict and assuming the jury believed the state’s witnesses and disbelieved contrary evidence, we conclude that Stai’s statement while carrying an open knife, that he would cut L.E. from her stomach to her throat, “would have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *Schweppe*, 306 Minn. at 399, 237 N.W.2d at 613 (quotation omitted). Regardless of the history of her relationship with Stai, L.E. testified that on October 6, Stai “scared the living daylights out of [her].” Although some evidence in the record suggests that L.E. did not feel apprehension that Stai would follow through with his threat, our standard of review requires us to “assume the jury believed

the state's witnesses and disbelieved any evidence to the contrary." *Caldwell*, 803 N.W.2d at 384 (quotation omitted).

We conclude that sufficient evidence supports the jury's conviction of terroristic threats.

In a pro se brief, Stai offers vague comments about the sufficiency of evidence, the voir dire process and several jurors, and the jury instructions. But he fails to provide legal argument or authority. Challenges unsupported by argument or authority are generally waived "unless prejudicial error is obvious on mere inspection." *State v. Modern Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997) (quotation omitted). Upon a thorough review of the trial transcript, including the portions involving the voir dire process and jury instructions, we conclude that no prejudicial error is obvious upon mere inspection.

Affirmed.