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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1354**

State of Minnesota,
Respondent,

vs.

Mahad Bashir Salad,
Appellant.

**Filed June 10, 2013
Affirmed
Huspeni, Judge***

Hennepin County District Court
File No. 27-CR-12-667

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

Michael O. Freeman, Hennepin County Attorney, Thomas A. Weist, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Rochelle R. Winn, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cleary, Presiding Judge; Hooten, Judge; and Huspeni, Judge.

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

UNPUBLISHED OPINION

HUSPENI, Judge

Appellant Mahad Bashir Salad challenges his conviction of first-degree assault. He argues that the evidence was insufficient because he did not inflict great bodily harm when he stabbed the victim, which caused a three-centimeters-long cut, but subsequent exploratory surgery caused a one-foot-long scar. We affirm.

FACTS

Appellant walked into a holiday party at a private residence, where he was told by several guests that he was not welcome. But appellant refused to leave, and instead tried to force his way past two guests, including the victim, C.P. When C.P. tried to push appellant out the door, appellant stabbed C.P. in the abdomen. C.P. and the other guests observed blood on C.P.'s shirt and intestines bulging from the stab wound. When a police officer arrived at the residence, he observed C.P. "bleeding pretty profusely" from a "pretty deep cut" on his abdomen. An ambulance transported C.P. to the hospital.

At the hospital, physicians treated C.P. for the stab wound. As the chief of surgery testified, "[C.P.] had a three-centimeter stab wound to his abdomen, and he had intestinal contents that were visible within this wound, meaning the laceration had gone through all the layers of his abdominal wall." To confirm the absence of life-threatening internal injuries or infections, C.P. underwent an exploratory laparotomy. To examine all the intestinal contents, the surgeons made a 12-inch incision. The incision required over 20 staples, and C.P. was hospitalized for four days.

When police arrested appellant later on the night of the incident, he had a bloody knife in his possession. The blood matched C.P.'s DNA. Respondent State of Minnesota charged appellant with first- and second-degree assault, in violation of Minn. Stat. §§ 609.221, subd. 1, .222, subd. 1 (2012). After a jury trial, appellant was found guilty of both charges and later sentenced to 84 months in prison. This appeal follows.

D E C I S I O N

In considering a claim of insufficient evidence, we review the evidence in the light most favorable to the conviction. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

A defendant is guilty of first-degree assault if he or she “assaults another and inflicts great bodily harm.” Minn. Stat. § 609.221, subd. 1. “‘Great bodily harm’ means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.” Minn. Stat. § 609.02, subd. 8 (2012).

Appellant argues that the evidence was insufficient to convict him of first-degree assault because he did not inflict serious, permanent disfigurement on C.P. by only inflicting a three-centimeter stab wound. But here, the chief of surgery testified that after being stabbed, C.P.'s fat and small intestines were visible. Because the physician wanted

to be certain that he did not miss any internal injuries, he obtained C.P.'s permission to perform exploratory surgery. As a result of the surgery, the three-centimeters-long stab wound became a one-foot-long scar.

Scars, depending on their visibility, permanence, and length, may constitute great bodily harm. *State v. McDaniel*, 534 N.W.2d 290, 293 (Minn. App. 1995) (concluding that a two-thirds-of-an-inch-long scar and a six-centimeters-long scar constitute great bodily harm), *review denied* (Minn. Sept. 20, 1995). In *State v. Anderson*, 370 N.W.2d 703, 705 (Minn. App. 1985), *review denied* (Minn. Sept. 19, 1985), a case especially informative for resolution of the issue appellant raises here, the victim was kicked and stepped on, which resulted in a lacerated liver. Surgical repair of that laceration created a scar several inches in length. *Id.* Despite the fact that the defendant in *Anderson* did not inflict the stab wound that created the scar, he was held responsible for inflicting great bodily harm. *Id.* at 706.

Despite later caselaw supporting a determination that appellant did, indeed, cause serious, permanent injury by inflicting a relatively small wound that resulted in a much longer surgical scar, appellant relies on our decision in *State v. Gerald*, 486 N.W.2d 799, 802-03 (Minn. App. 1992), in which we held that two scars, each one-half inch long, located in the victim's ear and on the back of the victim's neck, did not constitute a serious, permanent disfigurement. We determined that the scars were "relatively small" and "not particularly noticeable." *Id.* at 802. But here, in stark contrast to *Gerald*, C.P.'s scar is much larger and more noticeable. Thus, we conclude that appellant's reliance on *Gerald* is misplaced.

Appellant also argues that he cannot be held responsible for C.P.'s disfigurement because he did not *inflict* the foot-long scar. But our caselaw has rejected similar arguments. In *State v. Larkin*, 620 N.W.2d 335, 338 (Minn. App. 2001), for example, we declared that “inflict” and “cause” were synonymous in a third-degree assault case. And importantly, the legislature has not acted to clarify the meaning of “inflict” since the word was first used in the assault statutes in 1891. We will continue to construe the word in a manner that is consistent with existing precedent. Minn. Gen. Stat. ch. 86, Title 9, § 6141 (1891). Thus, appellant’s argument that we apply a narrower dictionary definition of “inflict” is unpersuasive.

In sum, our caselaw is clear that a defendant is responsible for causing serious, permanent surgical scars. And here, the evidence is sufficient to allow the jury’s guilty verdict convicting appellant of first-degree assault.

Affirmed.