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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0995**

Derrick Marcus Williams, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 10, 2014
Affirmed
Kirk, Judge**

Dakota County District Court
File No. 19HA-CR-10-3045

Cathryn Middlebrook, Chief Appellate State Public Defender, Bridget Kearns Sabo,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

James C. Backstrom, Dakota County Attorney, Tricia A. Loehr, Assistant County
Attorney, Hastings, Minnesota (for respondent)

Considered and decided by Kirk, Presiding Judge; Johnson, Judge; and Toussaint,
Judge.*

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

UNPUBLISHED OPINION

KIRK, Judge

In this appeal from the denial of his petition for postconviction relief, appellant challenges his conviction of violation of a domestic abuse no contact order (DANCO), arguing that the postconviction court erred when it denied his petition because there was insufficient evidence to prove that he knowingly violated the DANCO. We affirm.

DECISION

When an appellate court reviews a postconviction court's decision, "we examine only whether the postconviction court's findings are supported by sufficient evidence. We will reverse a decision of the postconviction court only if that court abused its discretion." *Lussier v. State*, 821 N.W.2d 581, 588 (Minn. 2012) (quotations and citation omitted). When assessing the sufficiency of the evidence, this court determines "whether the legitimate inferences drawn from the facts in the record would reasonably support the [fact-finder's] conclusion that the defendant was guilty beyond a reasonable doubt." *State v. Pratt*, 813 N.W.2d 868, 874 (Minn. 2012). This court views the evidence in the light most favorable to the conviction and assumes that the fact-finder believed the state's witnesses and disbelieved contrary evidence. *State v. Hokanson*, 821 N.W.2d 340, 353 (Minn. 2012), *cert. denied*, 133 S. Ct. 1741 (2013). Heightened scrutiny is applied whenever an element of an offense is proven entirely by circumstantial evidence. *State v. Silvernail*, 831 N.W.2d 594, 606 (Minn. 2013) (Stras, J., concurring in part) (citing *State v. Al Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (stating that in considering whether a fact was proven by circumstantial evidence, we consider whether the reasonable

inferences that can be drawn from the circumstances proved support a rational hypothesis other than guilt)).

Appellant Derrick Marcus Williams was charged with seven domestic abuse offenses against B.L. during their rocky three-year romantic relationship. In 2009, appellant pleaded guilty to violating a DANCO in Hennepin County district court. As part of his sentencing, he was placed on supervised probation, and the district court issued a DANCO forbidding appellant from contacting B.L. for two years. The district court reinstated the terms and conditions of the 2009 DANCO in February 2010. In August 2010, the Hennepin County district court issued a warrant for appellant's arrest for violating the DANCO after he went to B.L.'s apartment and threatened her son. On September 8, 2010, the state charged appellant with a felony-level violation of the DANCO after he entered B.L.'s apartment on September 4 and made threatening statements to her. Appellant pleaded not guilty to the September 4 offense and did not testify at his court trial.

At trial, the state offered testimony from two police officers who arrived on the scene and spoke with B.L. Both officers testified that B.L. told them that appellant had used a key to enter her apartment while she was sleeping, woke her up, and acted belligerently towards her. B.L. told them that a DANCO was in effect, and appellant was aware of the DANCO. B.L. told them that after she called 911, appellant went to his cousin's apartment located in an adjacent apartment complex. B.L. provided the officers with directions to appellant's cousin's apartment and stated that appellant was wearing a

white sweatshirt and black pants. Officers located appellant at the apartment and he matched the description given by B.L.

Officer Eric Bohrer testified that although he was unable to verify the existence of the DANCO on his mobile computer, he informed appellant that he was arresting him for violating the DANCO and the outstanding warrant from Hennepin County. Officer Bohrer placed appellant in the back of his squad car and did not take a statement from him or question him about his presence in B.L.'s apartment. Officer Bohrer testified that appellant "kept saying things about, having to make it to a funeral in the morning and that he was never in [B.L.'s] apartment, and how could I arrest him for not being in the apartment." Appellant also made a voluntary statement to police that they had not witnessed him inside the apartment. The district court found appellant guilty of a felony-level violation of the DANCO and sentenced him to 21 months in jail, stayed for 5 years.

In December 2012, appellant filed a petition for postconviction relief, arguing that there was insufficient evidence to prove that he knowingly violated the DANCO. The district court denied appellant's motion, determining that there was sufficient evidence in the trial record to support its finding that appellant knowingly violated the DANCO because he "made a spontaneous statement to the officer wherein he denied being in [B.L.'s] apartment and that no one witnessed him in the apartment, inferring that he knew he was not supposed to be in [B.L.'s] apartment."

Appellant argues on appeal that the trial record contains insufficient facts to establish that he knowingly violated the provisions of the DANCO statute.

The elements of a felony-level violation of a DANCO are defined in 10 *Minnesota Practice*, CRIMJIG 13.54 (Supp. 2010), as follows: (1) there was an existing DANCO; (2) the defendant violated a term or condition of the DANCO; (3) the defendant knew of the existence of the DANCO; (4) the defendant knowingly violated the DANCO; (5) the violation occurred within 10 years of the first of two or more previous qualified domestic violence-related offense convictions; and (6) the defendant's act took place in Dakota County. *See* Minn. Stat. § 629.75, subd. 2(d)(1) (2010).

In *State v. Watkins*, 840 N.W.2d 21 (Minn. 2013), the Minnesota Supreme Court defines the “knowingly violates” element of the DANCO statute to require the defendant to “perceive directly” that the contact violated the statute. *Watkins*, 840 N.W.2d at 29. Appellant's reasonable belief that the “contact did not violate the DANCO could negate the mental state of the charged offense.” *Id.*

Viewed in the light most favorable to the district court's verdict, appellant's voluntary statements support his conviction. Appellant spontaneously denied being in B.L.'s apartment despite the fact that officers had not spoken with him about the facts underlying his arrest for violating the DANCO. Appellant also made a voluntary statement that the officers had not seen him in B.L.'s apartment. It was reasonable for the district court to infer from appellant's statements that he immediately understood that his conduct violated the terms of the DANCO.

Appellant argues that it was impossible for him to knowingly violate the DANCO because the state failed to prove that he knew the terms and conditions of the DANCO and that the DANCO was in effect on September 4, 2010. But B.L. told the officers that

appellant was aware that the DANCO was in effect. Further, the terms and conditions of the 2009 DANCO were reinstated in February 2010, six months prior to the offense. The district court could reasonably infer that appellant knew that he was forbidden to have contact with B.L. Despite the fact that the “knowingly violates” element of the offense is subjected to heightened scrutiny, we conclude that the only rational hypothesis that can be drawn from the circumstances proved at trial is that appellant was guilty of knowingly violating the DANCO.

Viewed in the light most favorable to the verdict, there is sufficient evidence to support appellant’s conviction of a felony-level violation of the DANCO.

Affirmed.