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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0476**

State of Minnesota,
Respondent,

vs.

Aaron Patrick Olson,
Appellant.

**Filed March 24, 2009
Affirmed
Stoneburner, Judge**

Scott County District Court
File No. 70CR0628174

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Patrick J. Ciliberto, Scott County Attorney, Michael J. Groh, Assistant County Attorney, Justice Center, JC340, 200 Fourth Avenue West, Shakopee, MN 55379 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Susan Andrews, Assistant Public Defender, Suite 300, 540 Fairview Avenue North, St. Paul, MN 55104 (for appellant)

Considered and decided by Stoneburner, Presiding Judge; Shumaker, Judge; and Collins, Judge.*

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

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant challenges his convictions of second-degree assault and terroristic threats, arguing that the state failed to prove the requisite intent to support the assault conviction and failed to prove that he threatened to commit a future act of violence to support the terroristic-threats conviction. We affirm.

FACTS

In a suicide attempt, appellant Aaron Patrick Olson swallowed 25 Valium pills and parked his car in a quiet, undeveloped neighborhood in Shakopee. Olson made several telephone calls to his wife and friends, announcing his intention to kill himself, hinting at his location, and stating that he would flee if police were sent. Olson's wife notified police, who went in search of Olson.

Shakopee Police Sergeant Balfanz was the first to locate Olson. Balfanz stopped within 10 to 20 yards of Olson, planning to cordon off the area and put out stop sticks to prevent Olson from driving away. But, as Balfanz's squad car got closer to Olson's car, Olson revved the engine of his car, started to move slowly, then accelerated and swerved toward the squad car, even though he could have left the area by an alternate route. Balfanz swerved to avoid a collision, and a chase ensued. Officer Christy joined the chase, driving behind Balfanz. Olson lost control of his vehicle and went off the road but managed to drive back onto the road and drove straight at Balfanz, causing Balfanz to again swerve to avoid a collision. Olson drove away at a high speed, but spun out and stopped, again facing Balfanz's squad car. Olson accelerated at a high rate of speed

toward Balfanz's squad car. Balfanz swerved, but the vehicles collided, temporarily disabling the squad car. Balfanz radioed other officers. Officer Christy drove around Balfanz's squad car and pursued Olson. Officers Marquardt and Kolar joined the pursuit.

Eventually, Olson again lost control of his vehicle and slid into a ditch. Olson was apprehended and transferred by ambulance to a medical center. Marquardt, who was with Olson while he was treated, noted that Olson was not intoxicated and appeared lucid. Emergency room doctors found Olson awake and alert when he was admitted but he became increasingly somnolent, consistent with ingestion of a significant amount of Valium.

Olson was charged with (1) first-degree assault; (2) second-degree assault—dangerous weapon; (3) terroristic threats; (4) first-degree criminal damage to property; and (5) fleeing a peace officer. A jury acquitted Olson of first-degree assault and found him guilty of all other charges. Consistent with the verdict, Olson was convicted of all of the charges except first-degree assault. He was sentenced only for second-degree assault. This appeal, challenging only the convictions of second-degree assault and terroristic threats, followed.

DECISION

I. Sufficient evidence of intent

Olson first argues that the state failed to prove beyond a reasonable doubt that he had the requisite intent to support a conviction of second-degree assault. Where the sufficiency of the evidence is challenged, we conduct a painstaking review of the record to determine whether the evidence, when viewed in the light most favorable to the

conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989).

Olson was convicted of assault with a dangerous weapon in violation of Minn. Stat. § 609.222, subd. 1 (2006), which provides: “Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than \$14,000 or both.” The assault involved is defined as “an act done with intent to cause fear in another of immediate bodily harm or death.” Minn. Stat. § 609.02, subd. 10(1) (2006). Intent is established if the actor “either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2006).

The state argues that Olson committed assault with a dangerous weapon by revving his engine and accelerating his car toward Balfanz. Olson argues that because he has consistently stated that the only person he wanted to hurt that night was himself, the state failed to prove that he intended to cause fear in Balfanz of immediate bodily harm or death. But “[a] factfinder evaluates the credibility of witnesses and need not credit a defendant’s exculpatory testimony . . . if the evidence as a whole supports a finding that the actor intended the natural and probable consequences of his actions.” *State v. Hough*, 585 N.W.2d 393, 396 (Minn. 1998) (reinstating the judgment of the district court convicting appellant on six counts of assault with a deadly weapon against all occupants of a home into which defendant fired numerous shots from a semiautomatic weapon despite defendant’s claims that he only intended to scare one of the occupants and did not know the others were present).

Likewise, in this case, the jury could reject Olson's statements that he only intended to harm himself and could infer from his actions of repeatedly accelerating his motor vehicle toward Balfanz that Olson intended to cause Balfanz to fear immediate bodily harm or death if he tried to stop Olson. On this record, we conclude that the evidence of Olson's intent to assault Balfanz using his vehicle as a dangerous weapon is sufficient to support his conviction of second-degree assault.

II. Sufficient threat of harm implied

A person is guilty of terroristic threats if he "threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another . . . or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience." Minn. Stat. § 609.713, subd. 1 (2006). Olson does not dispute that assault with a motor vehicle is a crime of violence: his argument is that he did not threaten to commit such an act *in the future*. See *State v. Murphy*, 545 N.W. 2d 909, 916 (Minn. 1996) (stating that the terroristic threats statute mandates that the threats must be to commit a *future* crime of violence which would terrorize a victim).

In this case, the jury could reasonably infer that Olson's conduct was a threat to smash into Balfanz's squad car if Balfanz persisted in trying to stop Olson or failed to take evasive action that would allow Olson to escape. Evidence of three separate instances of Olson accelerating directly toward Balfanz supports the jury's conclusion that Olson, by his conduct, acted in reckless disregard of the risk of causing Balfanz to be in terror of a crime of violence. The requirement of a threat to commit a future crime of violence was met in this case even though the threat was to act in the immediate future

absent evasive action by Balfanz. The evidence is sufficient to support the jury's finding that Olson made terroristic threats.

Affirmed.