

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2012).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1034**

In the Matter of the Welfare of: J. J. S., Child

**Filed February 11, 2013
Affirmed
Larkin, Judge**

Itasca County District Court
File No. 31-JV-12-184

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

John J. Muhar, Itasca County Attorney, Mary J. Evenhouse, Assistant County Attorney, Grand Rapids, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Susan J. Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Larkin, Judge; and Rodenberg, Judge.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant challenges the sufficiency of the evidence to sustain his delinquency adjudication for obstructing legal process. We affirm.

FACTS

Appellant J.J.S. (born March 29, 1997) was charged by delinquency petition with obstructing legal process, minor consumption of alcohol, and possession of drug paraphernalia.¹ A court trial was held on March 28, 2012.

At trial, Itasca County Sheriff's Deputy Kris Miller testified that on January 1, at approximately 1:39 a.m., he was dispatched to investigate the attempted theft of an illuminated snowman from a home in Marble. The homeowner told Deputy Miller that she scared away the suspect, who she described as a juvenile white male, by knocking on the window and that he ran toward a nearby house. Deputy Miller followed a set of footprints in the snow to that house. As he approached the house, Deputy Miller observed three juvenile males and one juvenile female through a window. One of the males, later identified as J.J.S., walked toward the back of the house.

Deputy Miller walked to the back of the house and saw J.J.S. standing in the kitchen holding a flashlight. J.J.S. shook the flashlight, opened it, and retrieved a pill from its interior. J.J.S. appeared to crush the pill and then held his hand up to his nose as if to snort or smell it. J.J.S. put the pill back inside of the flashlight and placed the flashlight on top of the refrigerator.

Deputy Miller testified that, based on his observations and experience, he believed the pills were contraband. Deputy Miller knocked on the back door. J.J.S. walked toward the door, saw Deputy Miller, and ran in the opposite direction. Another individual briefly entered the kitchen and then disappeared from view. Deputy Miller,

¹ The state dismissed the possession-of-drug-paraphernalia charge before trial.

believing that the individual may have been attempting to destroy evidence, entered the house and announced himself as law enforcement.

Deputy Miller testified that he wanted to keep an eye on the four juveniles in the house and secure the kitchen area where he saw the suspected contraband. He therefore gathered the four juveniles in the living room and asked them to sit on the couch. J.J.S. became agitated and refused to sit on the couch. Deputy Miller put his hand on J.J.S.'s chest, pushed him onto the couch, and told him to sit down. J.J.S. stood up and "came at" Deputy Miller. Deputy Miller tried to "leg sweep" J.J.S. but was unsuccessful. The two wrestled, and Deputy Miller saw J.J.S. clench his fist and raise one arm up, as if to strike Deputy Miller. Deputy Miller stepped backward, J.J.S. moved towards Deputy Miller's left side, and Deputy Miller shot J.J.S. with his Taser.

J.J.S. testified that he did not make a fist or try to hit Deputy Miller. The other three juveniles gave conflicting testimony at trial. For example, one juvenile testified that Deputy Miller used his Taser on J.J.S. four times, whereas another testified that Deputy Miller used his Taser on J.J.S. twice. Sheriff office records indicate that Deputy Miller deployed his Taser once. The district court found Deputy Miller's testimony credible and concluded that the state had proven, beyond a reasonable doubt, that J.J.S. was guilty of misdemeanor obstructing legal process. The district court subsequently adjudicated J.J.S. delinquent. This appeal follows.

DECISION

J.J.S. challenges the sufficiency of the evidence to sustain his delinquency adjudication for obstructing legal process. "In reviewing the sufficiency of the evidence

the court applies the same standard to bench and jury trials.” *In re Welfare of M.E.M.*, 674 N.W.2d 208, 215 (Minn. App. 2004). This court’s review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the finder of fact to reach the verdict that it did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court must assume “the [finder of fact] believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). This is especially true when a determination of guilt depends mainly on the resolution of conflicting testimony. *State v. Pieschke*, 295 N.W.2d 580, 584 (Minn. 1980). The reviewing court will not disturb the verdict if the finder of fact, 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).

Minnesota law provides, in relevant part, that anyone who intentionally “obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties” is guilty of obstructing legal process. Minn. Stat. § 609.50, subd. 1(2) (2010). Physical acts or words that have the effect of physically obstructing or interfering with a police officer may constitute obstructing legal process. *State v. Tomlin*, 622 N.W.2d 546, 548 (Minn. 2001). But the statute has been construed narrowly “to proscribe conduct directed at the police officer.” *State v. Morin*, 736 N.W.2d 691, 698 (Minn. App. 2007), *review denied* (Minn. Sept. 18, 2007).

Appellant argues that this court must reverse his delinquency adjudication because the state “failed to prove beyond a reasonable doubt that [he] obstructed, resisted or interfered with Deputy Miller while [Deputy] Miller was engaged in the performance of official duties.” We disagree. Deputy Miller was engaged in the performance of official duties when he gathered the juveniles in the living room and secured the suspected contraband.

Moreover, the evidence is sufficient to show that J.J.S. obstructed Deputy Miller. The supreme court’s opinion in *State v. Krawsky*, 426 N.W.2d 875 (Minn. 1988), instructs our analysis. In *Krawsky*, the supreme court held that Minn. Stat. § 609.50 is not unconstitutionally overbroad or vague on its face. 426 N.W.2d at 879. Under *Krawsky*, the state must prove that the defendant intentionally engaged in a physical act that substantially frustrated or hindered the officer in the performance of her official duties. *Id.* at 877. The supreme court concluded that mere interruption does not constitute obstruction of legal process. *Id.*

The district court found that J.J.S. refused to sit on the couch, “came at” Deputy Miller, wrestled with him, and “engaged in some action that made Deputy Miller believe [J.J.S.] was going to strike.” The record sustains these findings. *See generally State v. Critt*, 554 N.W.2d 93, 95 (Minn. App. 1996) (“The [district] court’s factual findings are subject to a clearly erroneous standard of review[.]”), *review denied* (Minn. Nov. 20, 1996); *Moore*, 438 N.W.2d at 108 (stating that the reviewing court must assume “the [finder of fact] believed the state’s witnesses and disbelieved any evidence to the contrary”). The district court concluded that J.J.S.’s acts were physical acts that were

directed at Deputy Miller, that were “motivated by his belief that Deputy Miller should not have been in the house,” and that obstructed or interfered with Deputy Miller in the performance of his duties. The district court’s conclusion is reasonable. *See State v. Occhino*, 572 N.W.2d 316, 318, 321 (Minn. App. 1997) (holding that “physical acts of intentional resistance of a lawful police order” by the appellant, including “swinging his arm and knocking [the officer’s] hand away” were sufficient to constitute obstruction of legal process), *review denied* (Minn. Jan. 28, 1998).

The district court further found that J.J.S. “interfered with Deputy Miller’s ability to safely control the other juveniles and monitor the area of the house where he witnessed contraband” and that “[b]ecause of [J.J.S.’s] actions, Deputy Miller was required to use force that he would not have had to use if [J.J.S.] had complied with Deputy Miller’s instructions.” The record again supports these findings. The district court therefore concluded that J.J.S. substantially hindered Deputy Miller’s ability to perform his official duties. The district court’s conclusion is again reasonable. *Cf. Krawsky*, 426 N.W.2d at 877-78 (“[T]he statute does not apply to ordinary verbal criticism directed at a police officer even while the officer is performing his official duties and does not apply to the mere act of interrupting an officer.” But “the statute may be used to punish a person who runs beside an officer pursuing a felon in a public street shouting and cursing at the officer if the shouting and cursing physically obstructs the officer’s pursuit and if the person intends by his conduct to obstruct or interfere with the officer.”).

J.J.S. contends that although he was “not as cooperative or respectful as he should have been,” his actions did not “substantially hinder the officer’s ability to do his job.”

He insists that his actions “had no impact on [Deputy] Miller’s ability to control [the other juveniles] because they remained seated on the couch” and “[e]ven if, as [Deputy] Miller testified, [J.J.S.] raised his fist, that act did not substantially hinder [Deputy] Miller’s ability to do his job because, upon seeing the fist, [Deputy] Miller disabled [J.J.S.] by tasing him.” But the state was not required to prove that the other juveniles escaped or that J.J.S. struck Deputy Miller. Deputy Miller testified that he was worried about securing the four individuals and the suspected contraband. These were valid concerns. And while Deputy Miller responded to J.J.S.’s refusal to follow instructions, he was distracted and unable to protect against those concerns. The other individuals could have fled or interfered with the suspected contraband. J.J.S.’s actions went beyond verbal interruption or criticism, and they substantially frustrated or hindered Deputy Miller’s ability to perform his official duties. *See id.* at 878 (stating that the statute “does not apply to ordinary verbal criticism”).

Because the district court, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that J.J.S. was guilty of obstructing legal process, we will not disturb its delinquency adjudication.

Affirmed.