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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1150**

State of Minnesota,
Respondent,

vs.

Amecio Navro Enge,
Appellant.

**Filed July 8, 2013
Affirmed
Kalitowski, Judge**

Hennepin County District Court
File No. 27-CR-10-46636

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

Michael O. Freeman, Hennepin County Attorney, Lee W. Barry, III, Linda M. Freyer,
Assistant County Attorneys, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Renée Bergeron, Special Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Kalitowski, Presiding Judge; Hooten, Judge; and
Klaphake, Judge.*

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

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant Amecio Enge challenges his conviction of third-degree murder, arguing that the circumstantial evidence is insufficient to support the jury's verdict because the circumstances proved permit a reasonable inference that is inconsistent with guilt. We affirm.

FACTS

Early on the morning of October 2, 2010, appellant and E.M.J. were socializing with a group of people at C.A.'s and M.M.'s house in North Minneapolis. The group included C.A., M.M., and several other guests. Around 7:00 a.m., an argument broke out between appellant and M.M., and everybody went outside. Once outside, M.M. and two others physically fought with appellant and E.M.J.

The men first moved to an area of grass between the house and an adjacent alley, then to the alley, the sidewalk, and the street. The others stood on the stairs leading to the house's front porch and on the sidewalk.

At some point, appellant left the fight and ran to his car. Appellant drove toward the alley, where he then turned and drove toward the people. Appellant struck E.M.J. with the front of his car and dragged E.M.J. under the car; when appellant reversed the car, E.M.J. fell from underneath the car onto the street. Appellant quickly reversed across the street, where he hit a car parked in front of a garage. The impact forced the parked car into the garage door and knocked down part of the garage wall. Appellant proceeded forward across the street toward C.A.'s and M.M.'s house and the people in

front of the house. As appellant crossed the street, he accelerated and again hit E.M.J., who was lying on the street.

After crossing the street, appellant struck M.M., who was in front of the porch and attempting to flee from the oncoming car. After hitting M.M., appellant struck the front porch, which shattered and crashed into the yard. Appellant's car stalled in the porch debris with M.M. under the car. People yelled at appellant that M.M. was under the car, but appellant did not respond or open the locked car door. The car engine revved as appellant maneuvered his car out from the debris. Appellant subsequently backed up a bit and drove forward across the lawn in front of the house and onto the street. When appellant hit the curb, M.M. fell from underneath the car and landed on the street.

Appellant quickly drove away. His car was damaged in the passenger-side wheel area. A Minneapolis police officer who was nearby heard a loud noise and observed a white sedan traveling over 50 miles per hour, with damage to its passenger-side wheel. The officer pursued the car with his squad car's siren and emergency lights activated. But appellant did not stop until he reached his house. About two hours after the incident, appellant's alcohol concentration was .13.

M.M. was taken to a hospital and pronounced dead later that morning. M.M.'s injuries were consistent with being hit and dragged by a car. A jury found appellant guilty of third-degree murder of M.M. In this appeal, appellant challenges the sufficiency of the evidence to support the jury's verdict of third-degree murder.

DECISION

“When considering a claim of insufficient evidence, we conduct a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the jury to reach its verdict.” *State v. Hohenwald*, 815 N.W.2d 823, 832 (Minn. 2012) (quotation omitted). “In conducting that review, we assume the factfinder believed the State’s witnesses and disbelieved any evidence to the contrary.” *Id.*

Although we review circumstantial evidence under “heightened scrutiny,” it “is entitled to the same weight as direct evidence.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010); *State v. Bauer*, 598 N.W.2d 352, 370 (Minn. 1999). When we review the sufficiency of circumstantial evidence, we apply a two-step process. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010). First, we “identify the circumstances proved.” *Id.* (quotation omitted).

By the term “circumstances proved” is not meant every circumstance as to which there may be some testimony in the case, but only such circumstances as the jury finds proved by the evidence. There may well be in any case testimony on behalf of the defendant as to inconsistent facts and circumstances, not conclusively proved, and which the jury may have a right to and do reject as not proved.

State v. Stein, 776 N.W.2d 709, 715 (Minn. 2010) (plurality opinion) (quoting *State v. Johnson*, 173 Minn. 543, 545-46, 217 N.W. 683, 684 (1928)). “Consistent with our standard of review, we defer to the jury’s acceptance of the proof of these circumstances as well as to the jury’s rejection of evidence in the record that conflicted with the circumstances proved by the State.” *State v. Hanson*, 800 N.W.2d 618, 622 (Minn.

2011). “Juries are generally in the best position to weigh the credibility of the evidence and thus determine which witnesses to believe and how much weight to give their testimony.” *Andersen*, 784 N.W.2d at 329 (quotation omitted).

Second, we “examine independently the reasonableness of all inferences that might be drawn from the circumstances proved; this includes inferences consistent with a hypothesis other than guilt.” *Id.* (quotation omitted). We do not review the circumstances proved in isolation, but “consider whether the circumstances proved are consistent with guilt and inconsistent, *on the whole*, with any reasonable hypothesis of innocence.” *State v. Hawes*, 801 N.W.2d 659, 669 (Minn. 2011) (quotation omitted). “Circumstantial evidence must form a complete chain that, as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any inference other than guilt.” *Hanson*, 800 N.W.2d at 622.

A person is guilty of third-degree murder if the person, “without intent to effect the death of any person, causes the death of another by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human life.” Minn. Stat. § 609.195(a) (2010). This statute “was intended to cover reckless or wanton acts committed without regard to their effect on particular persons.” *State v. Lee*, 491 N.W.2d 895, 901 (Minn. 1992) (quotation omitted).

Appellant argues that the evidence is insufficient to support the jury’s verdict that he acted with a depraved mind, without regard for human life. We disagree.

In addressing appellant’s argument, we first identify the circumstances proved. Through evidence presented at trial, the state proved that on the morning of October 2,

2010, appellant and E.M.J. physically fought M.M., and two other individuals outside of C.A.'s and M.M.'s house. Appellant left the fight, ran to his car, and drove toward the people. Appellant hit E.M.J. and dragged him under the car; when appellant reversed, E.M.J. fell from underneath the car and landed on the street. Appellant reversed into a parked car with enough force to damage the parked car, force it into a garage door, and knock down part of the garage wall. Appellant then drove forward across the street and again drove toward people. Appellant hit E.M.J., who was lying in the street, a second time. Appellant continued traveling forward and hit M.M., who was attempting to move out of the way. Appellant crashed into the front porch, and appellant's car stalled in the porch debris, with M.M. under the car. Appellant did not open his door or window or respond to those yelling that M.M. was under the car. Appellant maneuvered the car out from the debris, drove forward across the lawn and onto the street. When appellant's car hit the curb, M.M. fell onto the street and appellant quickly drove away.

Through the testimony of a traffic-accident reconstructionist, the state proved that there were acceleration marks leading from the street to the porch debris, and from the porch debris to the middle of the street, but that there were no brake marks. The traffic-accident reconstructionist also testified that a car of the make, model, and year of appellant's car, traveling from the south side of the street to the front porch, could have reached a speed of approximately 23.68 miles per hour.

Viewing the circumstances proved as a whole in a light most favorable to the verdict, we conclude that the only reasonable inference to be drawn is that appellant acted with a depraved mind by engaging in conduct that was "eminently dangerous to human

life, that appellant must have been aware that he was placing human life at risk, and that he heedlessly disregarded that risk.” *State v. Montermini*, 819 N.W.2d 447, 461 (Minn. App. 2012).

The evidence of appellant’s actions after leaving the scene also implies that he acted with a depraved mind. *See Davis v. State*, 595 N.W.2d 520, 526 (Minn. 1999) (stating that a defendant’s intent may be “inferred from events occurring before and after the crime”). Appellant left the scene in a damaged car and placed human life at risk by driving on city streets at speeds of over 50 miles per hour. And when a police officer followed appellant in a patrol car with its siren and emergency lights activated, appellant did not stop.

Appellant asserts that the circumstantial evidence gives rise to the reasonable inference that he acted out of fear of bodily harm and tried to get away from his attackers. He contends that the evidence shows that he was losing the fight, fled in fear and confusion, tried to find and rescue E.M.J., and panicked. But appellant must demonstrate more than mere conjecture to overturn a conviction based on circumstantial evidence. *See State v. Lahue*, 585 N.W.2d 785, 789 (Minn. 1998) (“We will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture.”). Taking the circumstances proved as a whole, it is not rational to conclude that appellant’s conduct was an attempt to flee. Appellant did not drive away from the scene. Rather, he twice maneuvered his car toward people, and each time hit and dragged a person under his car. Appellant did not stop after hitting E.M.J. twice, nor did he stop after hitting M.M. Appellant did not respond to those who told him that M.M. was under the car, but

rather maneuvered his car from the porch debris. Appellant then quickly drove away from the scene on city streets. There were no brake marks at the scene; there were only acceleration marks. These circumstances are part of the circumstances proved; when viewed as a whole, the circumstances proved do not support a reasonable inference that appellant was merely attempting to flee.

Appellant also asserts that the evidence that E.M.J. asked a neighbor who was watching the scene from her yard if he could enter her house supports the reasonable inference that appellant was merely attempting to flee from the fight. But E.M.J. sought to enter the neighbor's house *after* appellant twice ran over him; this supports a reasonable inference that E.M.J. sought to flee from appellant's conduct, not from the fight. Appellant also contends that the evidence supports a reasonable inference that M.M. and another individual conspired to rob him because, before the argument began in the house, M.M. and three other individuals had conversations that he did not hear. But no evidence addresses the content of those conversations. The evidence of private conversations alone does not support a reasonable inference that, in those conversations, M.M. or anyone else planned to rob appellant.

Appellant also contends that in the state's identification of the "circumstances proved" in its brief, the state failed to include circumstances to which the state's witnesses testified. But for purposes of our review of the sufficiency of the evidence, "we conduct a painstaking review of the record"; we do not rely on the state's identification of the circumstances proved as presented in its brief. *Hohenwald*, 815 N.W.2d at 832. Moreover, the circumstances appellant points to are not "circumstances

proved” for purposes of our review because they either conflict with the verdict or are not relevant to the elements of the charged offense.

Affirmed.