STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0172

State of Minnesota,
Respondent,

vs.

Jeffrey David Price,
Appellant.

Filed March 25, 2008
Affirmed
Halbrooks, Judge

Steele County District Court
File No. K4-05-488

Lori Swanson, Attorney General, Kelly O'Neill Moller, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Douglas Ruth, Steele County Attorney, 303 South Cedar, Owatonna, MN 55060 (for respondent)

John M. Stuart, State Public Defender, Susan Andrews, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Klaphake, Presiding Judge; Halbrooks, Judge; and Schellhas, Judge.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

Appellant challenges his conviction of attempted second-degree murder on the ground that the evidence submitted at his trial was insufficient to prove beyond a reasonable doubt that he intended to kill the victim. We affirm.

FACTS

Appellant Jeffrey Price was charged by juvenile petition with attempted second-degree murder in violation of Minn. Stat. §§ 609.17, subd. 1, .19, subd. 1(1) (2004), and first-degree assault in violation of Minn. Stat. § 609.221, subd. 1 (2004), following an attack on R.B. The state moved to certify appellant as an adult, and the district court granted the motion. Appellant waived his right to a jury trial and submitted to trial to the court. At the conclusion of testimony, appellant pleaded guilty to first-degree assault. The district court subsequently found appellant guilty of attempted second-degree murder. This appeal follows.

D E C I S I O N

A person is guilty of attempted second-degree murder if he or she goes beyond mere preparation and takes substantial steps toward causing "the death of a human being with intent to effect the death of that person or another, but without premeditation." Minn. Stat. §§ 609.17, subd. 1, .19, subd. 1(1) (2004).

Appellant argues that the evidence was insufficient to prove beyond a reasonable doubt that he intended to kill R.B. "When reviewing a claim for sufficiency of the evidence, we are limited to ascertaining whether, given the facts in the record and any

legitimate inferences that can be drawn from those facts, a jury could reasonably find that the defendant was guilty of the charged offense." *State v. Asfeld*, 662 N.W.2d 534, 544 (Minn. 2003) (quotation omitted). We review the claim under the assumption that the fact-finder believed the state's witnesses and disbelieved contrary evidence. *State v. Bias*, 419 N.W.2d 480, 484 (Minn. 1988). But the fact-finder must have acted with due regard for the presumption of innocence and the necessity of overcoming that presumption by proof beyond a reasonable doubt. *State v. Combs*, 292 Minn. 317, 320, 195 N.W.2d 176, 178 (1972).

Minn. Stat. § 609.02, subd. 9(4) (2004), defines "with intent to" as "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." Because intent is a state of mind, it is "generally proved circumstantially—by drawing inferences from the defendant's words and actions in light of the totality of the circumstances." *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997).

When reviewing a conviction based on circumstantial evidence, the court applies a more stringent standard. Under this standard, "evidence is entitled to the same weight as any evidence so long as the circumstances proved are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis except that of guilt." *Bias*, 419 N.W.2d at 484; *see also State v. Walen*, 563 N.W.2d 742, 750 (Minn. 1997) (applying the same standard). The circumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt. *State v.*

Webb, 440 N.W.2d 426, 430 (Minn. 1989). Because the fact-finder is in the best position to evaluate circumstantial evidence, its verdict is entitled to due deference. *Id*.

The evidence at trial established that the charges arose out of an incident at the Academy Apartments on January 15, 2005. R.B. was the apartment manager. Appellant's mother rented an apartment in the building, and appellant occasionally stayed with her. In response to another tenant's complaint at 12:04 a.m. about loud noise and traffic coming from appellant's mother's apartment, R.B. called the police. The police responded, found underage people present, issued citations for underage drinking, and contacted the individuals' parents. The police asked R.B. to secure the apartment and to not let anyone back inside. At approximately 1:30 a.m., appellant began knocking on R.B.'s door, stating that he was going to beat up R.B. R.B. again called the police and was told that officers were on their way. Not feeling threatened at that point, R.B. left his apartment and went to the building office to wait for the police.

R.B. testified that while he sat in the property manager's office, appellant began to pace outside the office door, calling him names and taunting him. Appellant then said, "I'm going to juvie anyway, I'm just gonna f--king kill you," and struck R.B. in the face while R.B. was seated in a chair. Appellant continued to hit R.B. When R.B. attempted to push appellant out of the office, appellant closed the door with his foot, trapping R.B.

R.B. fell to the floor and tried to hide beneath the desk. But appellant continued to strike R.B. by throwing a computer screen, a fax machine, and a printer at him. R.B. testified that he was punched or kicked more than 20 times. R.B. stated that he thought he was going to die as a result of the blows.

Owatonna police officer Jeffrey Mundale arrived at the apartment complex at approximately 1:44 a.m. Officer Mundale testified that he heard an angry, agitated, and threatening male voice and saw fresh blood splattered on the closed office door. He called for backup and then entered the office. Officer Mundale saw only appellant in the room; appellant's hands and clothing had blood on them. One of the backup officers found R.B. under the desk, lying in a fetal position. R.B. had significant facial trauma and was in a state of semi-consciousness.

After appellant was handcuffed, he became vocal, saying that he was proud of what he did and that R.B. got what he had coming. As he was taken to the police car, appellant became more angry and threatening, calling officers names and spitting at them. Once in the police car, Officer Mundale started recording appellant. The tape was subsequently played at trial. On the audio tape, appellant stated, "I'm going to juvie or jail for a minor anyway, I might as well figure . . . I might get something out of the way, cuz I been after that b-tch for a long a-s time." Appellant also said that he knew the staff at the facility where he would be taken and that "I know exactly how to work that system. . . . I ain't gonna be in there long. I know how to work that program." In addition, Officer Mundale testified that appellant stated, "I'm glad you guys came when you did, otherwise I would have killed [R.B.]."

R.B. sustained multiple, significant injuries, including an orbital fracture, a cerebral contusion resulting in permanent cognitive deficit, four fractured ribs, and a fractured nose, requiring surgery. As a consequence of his injuries, R.B. testified that his

whole life has changed. He has difficulty with his memory and experiences stuttering, blurry vision, and sleeping problems.

Having thoroughly reviewed the record in this matter, we conclude that it contains sufficient evidence for the district court as fact-finder to have concluded that appellant is guilty beyond a reasonable doubt of attempted second-degree murder.

Affirmed.