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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1256**

State of Minnesota,
Respondent,

vs.

Douglas Hiram Coleman,
Appellant.

**Filed August 25, 2009
Affirmed
Worke, Judge**

St. Louis County District Court
File No. 69DU-CR-07-7483

Lori Swanson, Attorney General, John B. Galus, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Melanie S. Ford, St. Louis County Attorney, St. Louis County Courthouse, 100 North Fifth Avenue West, Duluth, MN 55802 (for respondent)

Marie L. Wolf, Interim Chief Appellate Public Defender, Rochelle R. Winn, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Worke, Presiding Judge; Minge, 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UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges his conviction of second-degree assault, arguing that the evidence was insufficient to prove that he intended to cause fear of immediate bodily harm or death. We affirm.

FACTS

On December 24, 2007, appellant Douglas Hiram Coleman knocked on his neighbor's apartment door to spread some holiday cheer. The neighbors began to feel threatened and asked appellant to leave. Appellant would not leave and a physical altercation ensued. Appellant pulled out a large kitchen knife, yelled obscenities, and began threatening the neighbors. As the neighbors retreated into the apartment, appellant began attacking the door with the knife and using his body as a battering ram. During the attack on the door, appellant yelled "I'll kill all you mother-----s." Appellant broke the door handle and lock, but the neighbors were able to keep the door closed.

Appellant was charged with second-degree assault and two counts of felony assault on a peace officer. Appellant waived his right to a jury trial and proceeded with a court trial. The district court granted appellant's request to consider the offenses of terroristic threats and reckless use of a dangerous weapon as lesser-included offenses of second-degree assault. The court found appellant guilty of the charged offenses as well as the lesser-included offenses. The court specifically found that appellant (1) attempted to physically assault one of the neighbors with a large kitchen knife; (2) intended to terrorize two of the neighbors by threatening to kill them; and (3) recklessly used a large

kitchen knife in a manner that endangered the safety of two neighbors. This appeal follows.

DECISION

Appellant challenges the sufficiency of the evidence underlying his second-degree-assault conviction. In considering a claim of insufficient evidence, our 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 a fact-finder to reach the verdict that it did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). When assessing the sufficiency of evidence, we review court trials in the same manner as jury trials. *Davis v. State*, 595 N.W.2d 520, 525 (Minn. 1999). We will not disturb the verdict if the fact-finder, 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).

Appellant argues that the evidence is insufficient to support his second-degree-assault conviction because there is no evidence that he intended to cause fear of immediate bodily harm or death. “Assault is a specific intent crime.” *State v. Edrozo*, 578 N.W.2d 719, 723 (Minn. 1998). “Assault” is defined as “(1) an act done with intent to cause fear in another of immediate bodily harm or death, or (2) the intentional infliction of or attempt to inflict bodily harm upon another.” Minn. Stat. § 609.02, subd. 10 (2006). Second-degree assault is the assault of another with a dangerous weapon. Minn. Stat. § 609.222, subd 1 (2006). The phrase “with intent to” means that “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).

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). “Circumstantial evidence is given the same weight as any other evidence as 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.” *State v. Pirsig*, 670 N.W.2d 610, 614 (Minn. App. 2003), *review denied* (Minn. Jan. 20, 2004). “Intent may be inferred from events occurring before and after the crime.” *Davis v. State*, 595 N.W.2d 520, 526 (Minn. 1999). And “the effect of the assault on the victim is frequently introduced at trial as evidence of the defendant’s intent, [although] it is not essential for a conviction.” *State v. Hough*, 585 N.W.2d 393, 396 (Minn. 1998).

Appellant’s argument is based on the somewhat inconsistent testimony of the neighbors and is without merit. We must assume “the [fact-finder] believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 580, 584 (Minn. 1980). This is especially true when resolution of the matter depends on conflicting evidence. *State v. Pieschke*, 295 N.W.2d 580, 584 (Minn. 1980); *see also State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003) (“Because the weight and believability of witness testimony is an issue for the district court, we defer to that court’s credibility determinations.”), *review denied* (Minn. July 15, 2003). Minor inconsistencies do not require reversal if the testimony taken as a whole is consistent and credible.

Marshall v. State, 395 N.W.2d 362, 365-66 (Minn. App. 1986), *review denied* (Minn. Dec. 17, 1986). Inconsistent testimony is more “a sign of the fallibility of human perception—not proof that false testimony was given,” especially in cases involving a traumatic or stressful event. *State v. Stufflebean*, 329 N.W.2d 314, 319 (Minn. 1983). Inconsistencies of insignificant details are immaterial when a victim’s testimony is consistent on the whole. *State v. Mosby*, 450 N.W.2d 629, 634 (Minn. App. 1990), *review denied* (Minn. Mar. 16, 1990).

The record supports the district court’s findings. The record shows that appellant refused to leave after being asked to do so and that he grabbed one of the neighbors as the neighbor was attempting to close the door. Appellant also brandished a large kitchen knife and used the knife to attack the neighbor’s door. Appellant threatened to kill the neighbors, and he repeatedly kicked and slammed his body into their door, causing the door handle and lock to break. Finally, appellant’s actions caused the neighbors to feel threatened. When viewed in the light most favorable to the conviction, the record contains ample evidence for the district court to find appellant guilty of second-degree assault.

Affirmed.