STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1866

State of Minnesota,
Respondent,

vs.

Ronald Arthur Carlson,
Appellant.

Filed December 15, 2009
Affirmed
Crippen, Judge[*]

Olmsted County District Court
File No. 55-CR-07-2971

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

Mark Ostrem, Olmsted County Attorney, Eric M. Woodford, Assistant County Attorney, 151 Fourth Street S.E., Rochester, MN 55904 (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 Lansing, Presiding Judge; Johnson, Judge; and Crippen, Judge.

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

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

CRIPPEN, Judge

Appellant Ronald Carlson challenges his conviction of first-degree arson, arguing that the evidence is insufficient to prove an intentional act of arson. Our careful examination of the evidence confirms that the evidence is adequate to sustain the jury verdict, and we affirm.

FACTS

Appellant lived in the lower level of a residence owned by his half-sister. In the early hours of February 19, 2007, the residence was destroyed in a fire. Appellant, who had been alone at the residence when the fire occurred, was charged with first-degree arson after investigators determined that the fire was the result of a gasoline-vapor explosion in the residence's lower level. After appellant was convicted by a jury verdict, the district court stayed execution of appellant's 48-month sentence on the condition that, among other things, he pay restitution and undergo psychological evaluation.

D E C I S I O N

An appellate court will not disturb the jury's verdict if the jury, considering the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably have concluded that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476–77 (Minn. 2004). In considering a challenge to the sufficiency of the evidence, we "must make a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in

the light most favorable to the verdict, were sufficient to allow the jury to reach its verdict." *State v. Pendleton*, 706 N.W.2d 500, 511 (Minn. 2005).

A conviction of arson in the first degree is warranted when one "unlawfully by means of fire or explosives, intentionally destroys or damages any building that is used as a dwelling at the time the act is committed." Minn. Stat. § 609.561, subd. 1 (2006). The sole issue on appeal is whether the state has demonstrated that the fire was the result of an intentional act of arson by appellant—the historic corpus delicti.

Appellant contends that he merely spilled gasoline in one room in the course of cleaning jewelry.[1] But there is sufficient evidence that appellant deliberately poured gasoline on the floor of the residence's lower level. A fire marshal gave expert testimony that, based on the quantity of gasoline that would have been needed to produce the amount of damage sustained by the residence, the gasoline had been poured rather than spilled. The fire marshal also testified that the intense fire damage to two separate lower-level rooms indicated that gasoline had been poured in more than one location. He opined that the fire started in these two separate places when the vapors from the poured gasoline reached the water heater or furnace in the lower-level laundry room. The jury was entitled to believe the fire marshal's opinions, which explained the intense damage to two separate rooms, over appellant's version of events. *See State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989) (stating that appellate court must assume that jury believed state's witnesses and disbelieved contrary evidence).

[1] Appellant's pro se supplemental brief is a summary of evidence to support his contention that the gasoline was accidentally spilled.

The jury was also entitled to believe appellant's own statements that were consistent with the gasoline being deliberately poured. Appellant admitted to a police officer that he had "poured gas" in the residence and that while he was pouring gas "it went off." He admitted to the emergency dispatcher that he and his half-sister had had a "falling out" and that he had gone "way too far." Appellant also made suicidal statements to a relative approximately two days before the fire.

In the alternative, appellant contends that his deliberate pouring of the gasoline was merely "a dramatic gesture to influence" his half-sister. But there is sufficient evidence to show that appellant intended to set fire to the residence when he poured the gasoline. After the fire, an undamaged box containing objects with sentimental value was found in the residence's front yard. A neighbor testified that he saw appellant exit the front door of the burning residence and that appellant had not been carrying anything in his hands. The jury could have inferred that appellant had removed the valuables from the residence before pouring the gasoline as part of a plan to set the residence on fire.

Appellant argues that the evidence presented at the four-day trial is not sufficiently clear to support his conviction. But the evidence was sufficient to permit the jury to conclude that appellant intentionally caused the explosion and fire by pouring gasoline in the residence, and the jury's verdict is entitled to due deference. *See State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989).

Affirmed.