STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1295

State of Minnesota,
Respondent,

vs.

Brian Harry Kjellberg,
Appellant.

Filed September 3, 2024
Affirmed
Larson, Judge

Ramsey County District Court
File No. 62-CR-21-6868

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Melvin R. Welch, Welch Law Firm, Minneapolis, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Connolly, Judge; and John Smith, Judge.*

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

NONPRECEDENTIAL OPINION

LARSON, Judge

In this direct appeal, appellant Brian Harry Kjellberg challenges his conviction for second-degree murder, arguing that the prosecutors violated his right to due process by engaging in misconduct, the district court abused its discretion when it denied his motion for a new trial based on juror misconduct, and the district court erred when it denied his motion for judgment of acquittal. Because we conclude the prosecutors did not violate Kjellberg's right to due process, the district court did not abuse its discretion when it denied his motion for a new trial, and the district court did not legally err when it denied his motion for judgment of acquittal, we affirm.

FACTS

Respondent State of Minnesota charged Kjellberg with one count of second-degree unintentional felony murder pursuant to Minn. Stat. § 609.19, subd. 2(1) (2020). The complaint alleged that Kjellberg caused A.S.'s death on December 2, 2021. Kjellberg asserted three defenses: self-defense, defense of dwelling, and authorized use of force. The matter proceeded to a jury trial, which established the following facts.

Kjellberg lived in a remodeled home that had previously been a fire station. In a paved area behind the home, there were "no parking" and "no trespassing" signs to prevent people from parking on Kjellberg's property. There was limited parking in the neighborhood around Kjellberg's home.

M.G. lived a few houses down from Kjellberg. On December 2, 2021, M.G.'s son, M.M., invited A.S. over to M.G.'s house. A.S. arrived around noon and parked in M.G.'s

assigned parking spot. When M.G. was expected to return home, A.S. moved his car and parked in the paved area behind Kjellberg's home.

Around 7:30 p.m. on December 2, 2021, Kjellberg contacted the non-emergency police number and requested that police ticket a vehicle parked in the paved area. Kjellberg then waited outside for approximately 20 minutes. Another one of M.G.'s sons, L.M., drove past the paved area and observed Kjellberg standing near A.S.'s vehicle. L.M. called M.M. to tell A.S. to move his car.

At approximately 7:50 p.m., Kjellberg called the emergency line. He told the dispatcher "I need help now!" and that "I got some black guy hitting me." The dispatcher noted that Kjellberg had called earlier, stating, "You called about a parking complaint?" Kjellberg responded, "Yup. Yup. And he's trying to get his vehicle and I want it towed and he's fighting with me" and "he's on my property. I told him to stay off my property." The dispatcher asked if he needed an ambulance, and Kjellberg responded, "I think he might . . . I have no idea. I would suggest to send somebody soon." The dispatcher then asked, "How is his car on your property and why won't you let him have it?" Kjellberg responded that A.S. could not be on his property, he wanted A.S. off his property, and he wanted A.S.'s vehicle towed. He also stated: "I asked him multiple times to get off my property and he kept on coming and he attacked me. And I want to press charges."

Meanwhile, L.M. remained nearby in his vehicle while he spoke to his girlfriend on the phone. He "looked up and [A.S.] was like hanging over in front of [L.M.'s] car breathing heavy" and he saw a small wound. A.S. told L.M.: "The white man stabbed

me." L.M. told A.S. to return to M.G.'s house because L.M. had a warrant out for his arrest and wanted to leave before the police arrived. A.S. returned to M.G.'s house.

M.M. testified that he heard the doorbell ring and opened the door to find A.S. "holding his chest and . . . saying the white man on the corner stabbed him." M.G. also testified that when A.S. returned to the house "he was holding his chest" and stating, "That white man stabbed me." M.M. and M.G. called the police.

Paramedics arrived and transported A.S. to the hospital where he died during surgery. When the police arrived at the scene, they collected a tire-deflator tool in the paved area and spoke to Kjellberg. Kjellberg explained that he told A.S. he had "no parking signs" and that A.S. could not park in the paved area. Kjellberg stated that he ordered A.S. to stay off his property. Kjellberg also told the police that A.S. said "something something, something [N-word]. I'm not your [N-word] or whatever. And I'm like, I didn't say a thing, I didn't say anything about race. . . . He goes, F you [N-word]. I'm like, I'm not, I replied back to him, I'm not your [N-word]." Kjellberg stated that A.S. punched him in the face several times, and he responded by stabbing him with the tire-deflator tool.

At the police department, Kjellberg gave another statement. Kjellberg reiterated that A.S. "doesn't have the right to park on my property," and that he had given his neighbor "a letter saying I was – I was going to bring him to court if he keeps on bringing or having his friends park in my yard." Kjellberg described the incident again, saying:

> There is a sign here, "No parking," "No Trespassing," whatever. I said, "I called the cops. And the tow truck people are on the way." He literally just reached back and just clocked me, um, probably four or five times. Oh. Actually, sorry, before that he goes, um, uh, so the - somethin' - somethin',

> "N[-word]," - "Get out of my way, n[-word]," or somethin' to me. . . .
>
> . . . .
>
> . . . [R]ight after that I said, "I'm not your n[-word]," to back hi- to him and then that's when he just cold clocked me fo- probably four or five times. I didn't even know what was happening.

He then admitted to stabbing A.S. with a tire-deflator tool. Kjellberg explained that he had the tire-deflator tool in his pocket, but suggested he did not plan to use it as a weapon. Kjellberg said he stabbed A.S. "[t]o defend [himself] on [his] own property." Kjellberg also described his neighborhood as "a troubled area" and described M.G.'s house as "a known drug house." Kjellberg stated: "I'm getting tired of everything. Um, I try to buy a nice building that the city would put up for sale. I put tons of money into it to better the neighborhood and I get riff raff next to me." The police took photos of Kjellberg's face and hands which, he argued, show defensive injuries. Kjellberg provided a consistent description of the events that occurred when he testified at trial.

The police also obtained surveillance video of the incident from a residence down the street. The state presented the surveillance video to the jury along with a transcript, which read:

> [A.S.]: [inaudible], sir.
> KJELLBERG: [inaudible]
> [A.S.]: Huh?
> KJELLBERG: Do not step on my property.
> . . . .
> [A.S.]: I'm getting my car.
> KJELLBERG: [inaudible] my property.
> [A.S.]: [inaudible] my car.
> KJELLBERG: Get off my property.

[A.S.]: It's my car. [inaudible]
. . . .
KJELLBERG: [inaudible]
[A.S.]: [inaudible] car.
KJELLBERG: [inaudible]
[A.S.]: Man, move away from my car. What are you doing, boy? [inaudible] move away from my car. [inaudible]
KJELLBERG: [inaudible] my property.
UNKNOWN: [inaudible] give me a towel, give me a towel.
UNKNOWN: Can we get an ambulance please?

A medical examiner examined A.S. after his death and determined that he suffered from "a small kind of puncture-type wound on the left side of the chest," that extended into the left ventricle of the heart and was approximately three inches in length. A.S. also suffered from a "chip fracture" to the "fifth rib on the left side." The medical examiner testified that A.S.'s cause of death was bleeding from a stab wound to the chest. The medical examiner did not observe wounds or trauma to A.S.'s hands.

During closing argument, the prosecutor stated that Kjellberg "did not like the riffraff coming into his neighborhood," and that "[h]e purchased his property with the intent to clean up" the area. The prosecutor also argued that A.S. simply approached the paved area to move his car, and Kjellberg became the initial aggressor when he prevented A.S. from doing so and told him to "stay off [his] property." The prosecutor described the evidence at trial as proving that, when A.S. asked Kjellberg to move away from his car so he could park it elsewhere, Kjellberg provoked the altercation by directing a racial slur at him which led to a "scuffle."

Defense counsel posited the opposite theory in closing argument—that Kjellberg was not angry or aggressive at the outset of the incident when A.S. approached him. All Kjellberg did was ask A.S. to stay off his property. Therefore, defense counsel argued, A.S. became the initial aggressor when he hit Kjellberg multiple times and knocked him to the ground. Defense counsel asserted that the jury should find Kjellberg acted in self-defense when he stabbed A.S. with the tire-deflator tool.

The jury returned a guilty verdict on the sole count. Thereafter, Kjellberg filed a motion for judgment of acquittal. Kjellberg argued that the state presented insufficient circumstantial evidence to sustain the conviction because the state failed to prove beyond a reasonable doubt that Kjellberg was the initial aggressor. The district court denied the motion, reasoning that the jury "could have concluded that [Kjellberg's] failure to allow [A.S.] to get to his car and move the vehicle was sufficient provocation" to prove that Kjellberg was the initial aggressor.

Kjellberg also filed a motion for a new trial based on juror misconduct. Kjellberg argued that the jury foreman was racially biased against white people and placed undue pressure on the other jurors. Kjellberg also alleged that the jury foreman failed to disclose during voir dire that he knew of defense counsel, along with "Kim Potter, George Floyd, and Derek Chauvin." Kjellberg attached to his motion several posts from the jury foreman's social-media page. The district court conducted a *Schwartz* hearing[1] where it

[1] A *Schwartz* hearing is a posttrial hearing in which jurors are examined under oath to address whether juror misconduct occurred. *See Schwartz v. Minneapolis Suburban Bus Co*., 104 N.W.2d 301, 303 (Minn. 1960).

elicited testimony from the jury foreman. Following the hearing, the district court denied Kjellberg's motion for a new trial based on juror misconduct.

After a sentencing hearing, the district court sentenced Kjellberg to 150 months in prison and stayed execution, placing him on probation for 10 years and ordering him to pay a $5,000 fine and $8,248 in restitution.

Kjellberg appeals.

ANALYSIS

Kjellberg challenges his conviction on the grounds that: (1) the prosecutors violated his right to due process when they improperly injected race into the trial; (2) the district court abused its discretion when, after a *Schwartz* hearing, it denied Kjellberg's motion for a new trial; and (3) the district court legally erred when it denied Kjellberg's motion for judgment of acquittal. We address each argument in turn.

I.

Kjellberg argues he is entitled to a new trial because the prosecutors denied him due process when they improperly injected race into the trial.[2] "Due process guarantees in our state and federal constitutions include the right to a fair trial." *Spann v. State*, 704 N.W.2d 486, 493 (Minn. 2005). "The overarching problem presented by prosecutorial misconduct

[2] Kjellberg characterizes the prosecutors' remarks as prosecutorial misconduct. The state responds that the remarks should be challenged as prosecutorial error. Though there is a distinction between prosecutorial error and prosecutorial misconduct, the same standard applies to both. *See State v. Leutschaft*, 759 N.W.2d 414, 418 (Minn. App. 2009) (distinguishing between prosecutorial misconduct and prosecutorial error but applying the modified plain-error test regardless of the characterization), *rev. denied* (Minn. Mar. 17, 2009). Because Kjellberg alleges prosecutorial misconduct, we address his argument under that framing.

is that it may deny the defendant's right to a fair trial." *State v. Ferguson*, 729 N.W.2d 604, 616 (Minn. App. 2007), *rev. denied* (Minn. June 19, 2007). "We will reverse a conviction if prosecutorial [misconduct], considered in light of the whole trial, impaired the defendant's right to a fair trial." *Id.*

Because Kjellberg did not raise a prosecutorial-misconduct objection at trial, we apply the modified plain-error test. *State v. Carridine*, 812 N.W.2d 130, 146 (Minn. 2012). To prevail under the modified plain-error test, Kjellberg initially must establish that there is prosecutorial misconduct and that it is plain. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). If Kjellberg meets this standard, the burden shifts to the state to show that the misconduct did not affect Kjellberg's substantial rights, i.e., "that there is no reasonable likelihood that the absence of the misconduct in question would have had a significant effect on the verdict of the jury." *Id*. (quotation omitted). To determine whether the state satisfied its burden, we consider, among other things: "(1) the strength of the evidence against [Kjellberg]; (2) the pervasiveness of the erroneous conduct; and (3) whether [Kjellberg] had an opportunity to rebut any improper remarks." *State v. Peltier*, 874 N.W.2d 792, 805-06 (Minn. 2016). If the state fails to satisfy its burden, "[we] then assess[] whether the error should be addressed to ensure fairness and the integrity of the judicial proceedings." *State v. Matthews*, 779 N.W.2d 543, 551 (Minn. 2010).

Kjellberg contends that the "[p]rosecutors improperly injected a racial component into the case without factual support." Kjellberg specifically challenges several statements prosecutors made about the dispute between Kjellberg and A.S. He highlights: (1) prosecutor statements that Kjellberg provoked A.S. when Kjellberg directed a racial

slur at A.S. and (2) prosecutor references to Kjellberg's statements during police interviews in which he expressed displeasure with "the riffraff" and his efforts "to clean up" the neighborhood.

When making their arguments to the jury, a prosecutor may present "all legitimate arguments on the evidence and all proper inferences that can be drawn from that evidence." *State v. Pearson*, 775 N.W.2d 155, 163 (Minn. 2009). However, the prosecutor "may not speculate without a factual basis." *Id*. Moreover, "it is improper to inject race into a closing argument when race is not relevant." *See State v. Cabrera*, 700 N.W.2d 469, 474 (Minn. 2005); *see also State v. Clifton*, 701 N.W.2d 793, 800 (Minn. 2005); *State v. Ray*, 659 N.W.2d 736, 747 (Minn. 2003). "In cases where race should be irrelevant, racial considerations, in particular, can affect a juror's impartiality and must be removed from courtroom proceedings to the fullest extent possible." *State v. Varner*, 643 N.W.2d 298, 304 (Minn. 2002). When reviewing claims of prosecutorial misconduct, we consider the prosecution's "argument as a whole, rather than just selective phrases or remarks." *See State v. Walsh*, 495 N.W.2d 602, 607 (Minn. 1993).

We are not persuaded that the prosecutors committed misconduct in this case. While it is misconduct for a prosecutor to inject race where it is irrelevant, *see Cabrera*, 700 N.W.2d at 474, the record supports that race was relevant. What happened and what was said during the verbal altercation between Kjellberg and A.S. was a key factual dispute for the jury at trial, especially as it related to Kjellberg's argument that he acted in self-defense and defense of dwelling. In the challenged statements, the state offered the jury a version of the argument between Kjellberg and A.S. based on the audio from the

surveillance video. *See Pearson*, 775 N.W.2d at 163 (providing that the state may make "all legitimate arguments on the evidence and all proper inferences that can be drawn from that evidence"). In doing so, the state aimed not only to respond to Kjellberg's version of events that he advanced throughout trial, but also to rebut his self-defense and defense-of-dwelling claims. *See State v. Banks*, 875 N.W.2d 338, 348 (Minn. App. 2016) (Minn. 1993) ("In closing arguments, the prosecutor may argue all reasonable inferences from evidence in the record and is free to make arguments in anticipation of the defense closing argument."), *rev. granted* (Minn. Apr. 19, 2016) *and ord. granting rev. vacated* (Minn. Sept. 28, 2016). Therefore, we conclude the state did not improperly inject race into a case where it was not relevant.

The cases Kjellberg cites do not persuade us otherwise. These cases involve more egregious injections of race based off the identities of the parties involved. *See, e.g.*, *Cabrera*, 700 N.W.2d at 474-75 (holding state's comments that defense theory amounted to "racist speculation" was "serious prosecutorial misconduct"); *Ray*, 659 N.W.2d at 746-47 (holding that prosecutor's remarks comparing world of "three young black males in the hood" to wealthier suburban communities improperly invited jury "to apply racial and socioeconomic considerations" in determining guilt). Here, our careful review of the record indicates that, unlike the cases Kjellberg cites, the prosecution's challenged comments focused on the factual dispute about what was said during the argument and how that dispute related to Kjellberg's defenses.

For these reasons, the prosecutors did not violate Kjellberg's due-process rights by improperly injecting race into the trial.

II.

Kjellberg next argues the district court abused its discretion when it denied him a new trial after a *Schwartz* hearing. Kjellberg specifically challenges the way the district court conducted the *Schwartz* hearing.

Both the United States and Minnesota Constitutions guarantee the right to trial by an impartial jury. U.S. Const. amend. VI; Minn. Const. art. I, § 6. After a motion, the district court may grant a new trial based on juror misconduct. Minn. R. Crim. P. 26.04, subd. 1(1)(3). The moving party bears the burden of proving actual bias at the *Schwartz* hearing. *State v. Evans*, 756 N.W.2d 854, 870 (Minn. 2008). Actual bias is "a state of mind on the part of the juror, in reference to the case or to either party, which would prevent the juror from trying the issue impartially and without prejudice to the substantial rights of either party." *Id*. (quotation omitted). "A finding by a district court of the presence or absence of bias is based upon determinations of demeanor and credibility and, thus, entitled to deference." *Id*. (quotation omitted). "A [district] court's decision to deny a motion for a new trial on the basis of jury misconduct will not be overturned absent an abuse of discretion." *State v. Kelley*, 517 N.W.2d 905, 910 (Minn. 1994). However, "[a]ctual bias is a question of fact, which the district court is in the best position to evaluate," and we review the district court's factual findings for clear error. *Evans*, 756 N.W.2d at 870 (citation omitted).

Kjellberg argues the district court abused its discretion in the way it conducted the *Schwartz* hearing because the district court asked whether the jury foreman was

predisposed to finding Kjellberg guilty, rather than asking about overt acts that may have improperly influenced other jurors.[3]

Kjellberg's argument misconstrues the scope of the district court's inquiry at the *Schwartz* hearing. At the beginning of the hearing, the district court specifically stated, in relevant part, that the hearing would focus only on whether the jury foreman was predisposed to find Kjellberg guilty. The district court explicitly stated that it would not address Kjellberg's argument regarding other jurors because there was no evidence to support those allegations.[4] *See State v. Larson*, 281 N.W.2d 481, 484 (Minn. 1979) ("The [district] court need not, however, blindly accept the assertions submitted by defense counsel."). Accordingly, the district court appropriately narrowed the scope of the hearing to inquire into only those allegations with some evidentiary support.

We conclude the district court appropriately conducted the *Schwartz* hearing and, thereby, did not abuse its discretion when it denied Kjellberg's motion for a new trial.

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[3] Kjellberg relies on *Kelley* to support his argument. There, the supreme court reversed and remanded the matter for a new trial on the ground that the district court gave instructions that could have misled the jury into believing that it was required to reach a verdict. *Kelley*, 517 N.W.2d at 909-11. In reaching its decision, the supreme court also commented on Kelley's argument that the district court improperly conducted a *Schwartz* hearing. *Id.* at 910. As relevant here, the supreme court noted its concern that the district court questioned the juror about his mental state, rather than overt acts. *Id.* But ultimately, the supreme court held that the district court did not abuse its discretion in conducting the *Schwartz* hearing. *See id.*at 911 ("While we do not conclude on these facts that the juror misconduct, on its own, would warrant the granting of a new trial, it provides a secondary basis for our decision."). Thus, we disagree with Kjellberg that *Kelley* supports his argument that the district court abused its discretion in the way that it questioned the jury foreman.

[4] Kjellberg does not argue on appeal that the district court abused its discretion when it determined that there was no evidence in the record to support that other jurors were influenced.

III.

Kjellberg finally argues the district court erred when it denied his motion for judgment of acquittal. We review this issue de novo. *State v. DeLaCruz*, 884 N.W.2d 878, 890 (Minn. App. 2016). When reviewing the denial of a motion for judgment of acquittal, we apply the sufficiency-of-the-evidence test. *See State v. Sam*, 859 N.W.2d 825, 831 (Minn. App. 2015) (first citing *State v. Al-Naseer*, 788 N.W.2d 469, 474 (Minn. 2010); and then citing *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013)) (stating that the district court is "required to apply the *Al-Naseer/Silvernail* analysis" to decide a motion for judgment of acquittal in a circumstantial-evidence case).

The first step in evaluating the sufficiency of the evidence is to determine whether the evidence used to sustain the verdict was direct or circumstantial. *See State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016). Direct evidence "is based on personal knowledge or observation and . . . if true, proves a fact without inference or presumption." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Circumstantial evidence is "evidence from which the [jury] can infer whether the facts in dispute existed or did not exist" and thus, "always requires an inferential step to prove a fact that is not required with direct evidence." *Id*. (quotation omitted).

Here, the parties agree that the guilty verdict rested largely on circumstantial evidence. Therefore, we apply a two-step analysis for reviewing the sufficiency of circumstantial evidence. *Silvernail*, 831 N.W.2d at 598. First, we must "identify the circumstances proved." *Id*. In doing so, "we defer to the jury's acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the

circumstances proved by the State." *Id*. at 598-99 (quotation omitted). We also "construe conflicting evidence in the light most favorable to the verdict and assume that the jury believed the State's witnesses and disbelieved the defense witnesses." *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008). In other words, when "determining the circumstances proved, we consider only those circumstances that are consistent with the verdict." *Silvernail*, 831 N.W.2d at 599.

Second, we must "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Id*. (quotation omitted). "We review the circumstantial evidence not as isolated facts, but as a whole," and "examine independently the reasonableness of all inferences that might be drawn from the circumstances proved." *Id*. (quotation omitted). If an alternative hypothesis is "untied to the evidence before the jury," that hypothesis is "wholly speculative" and does not warrant reversal. *State v. German*, 929 N.W.2d 466, 475 (Minn. App. 2019).

Here, the jury convicted Kjellberg of second-degree murder pursuant to Minn. Stat. § 609.19, subd. 2(1). Under that provision, a person commits second-degree murder if they cause "the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting." *Id.*

At trial, Kjellberg argued that he acted in self-defense when he killed A.S.[5] "In Minnesota, a person may act in self-defense if he or she reasonably believes that force is

[5] At trial, Kjellberg presented three defenses—self-defense, defense of dwelling, and authorized use of force. On appeal, Kjellberg relies only on self-defense.

necessary and uses only the level of force reasonably necessary to prevent the bodily harm feared." *State v. Devens*, 852 N.W.2d 255, 258 (Minn. 2014). Self-defense includes the following elements:

> (1) the absence of aggression or provocation on the part of the defendant; (2) the defendant's actual and honest belief that [they were] in imminent danger of . . . bodily harm; (3) the existence of reasonable grounds for that belief; and (4) the absence of a reasonable possibility of retreat to avoid the danger.

Id. (alteration in original) (quotation omitted). "Once a defendant meets the burden of going forward with evidence to support a claim of self-defense, the State bears the burden to disprove, beyond a reasonable doubt, one or more of the four elements." *Id*. (quotation omitted).

Kjellberg argues that the state's evidence was insufficient to disprove the first element of self-defense: "the absence of aggression or provocation on the part of" Kjellberg. *Id.* A person is the initial aggressor if they "began or induced the incident" by engaging in activity that is "a good deal greater than mere conversation." *Carridine*, 812 N.W.2d at 145 (quotations omitted). "An aggressor in an incident has no right to a claim of self-defense." *Bellcourt v. State*, 390 N.W.2d 269, 272 (Minn. 1986). We, therefore, must determine whether the circumstances proved are consistent with a reasonable hypothesis other than that Kjellberg induced the incident.

The following circumstances related to this element were proved at trial: (1) A.S. walked down the alley and approached his vehicle to move it from paved area; (2) an argument broke out between A.S. and Kjellberg; (3) Kjellberg told A.S. that he was not

allowed on his property or to move his vehicle; (4) Kjellberg and A.S continued to argue, and engaged in a physical altercation; (5) Kjellberg stabbed A.S. in the chest with a tire-deflator tool.

Having identified the circumstances proved, we turn to the second step: determining whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt. We conclude the circumstances proved are consistent with the rational hypothesis that Kjellberg's conduct provoked the incident. Kjellberg's repeated admission that he refused to allow A.S. to remove his car from the paved area qualifies as "a good deal greater than mere conversation," *see Carridine*, 812 N.W.2d at 145, and is sufficient evidence to defeat a self-defense claim, *see Bellcourt*, 390 N.W.2d at 272 ("An aggressor in an incident has no right to a claim of self-defense.").

The circumstances proved are also inconsistent with a rational hypothesis other than guilt. Kjellberg contends that a rational hypothesis drawn from the circumstances proved is that A.S. induced the incident as the initial aggressor.[6] To support this argument, Kjellberg focuses on the physical altercation that immediately preceded Kjellberg stabbing

[6] In making this argument, Kjellberg relies on an incorrect statement of the circumstances proved. When analyzing the sufficiency of the evidence, we must view the evidence "in the light most favorable to the verdict" and must assume "that the fact-finder disbelieved any evidence that conflicted with the verdict." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016). In arguing that this rational hypothesis exists, Kjellberg does the opposite—relying on the circumstances proved based on the defense's evidence and the facts in the light least favorable to the jury's verdict. *See State v. Bliss*, 457 N.W.2d 385, 390 (Minn. 1990) ("[I]t is necessary to assume that the jury believed the state's witnesses and disbelieved any contrary evidence." (quotation omitted)). Thus, Kjellberg's hypothesis is not only unreasonable given the correct circumstances proved, but it is also speculative because it is not tied to the evidence. *See German*, 929 N.W.2d at 475.

A.S. However, the physical altercation took place after Kjellberg refused to allow A.S. to access his vehicle. And because the question is who provoked the incident, the physical altercation that took place after the initial provocation is not relevant. *See Carridine*, 812 N.W.2d at 145 (quotation omitted) (providing that a person is the initial aggressor if they "began or induced the incident").

Because the state presented sufficient evidence to disprove the first element of Kjellberg's self-defense claim, we need not address the additional elements. *See State v. Basting*, 572 N.W.2d 281, 286 (Minn. 1997) (noting that the state defeats a self-defense claim by disproving just one of the elements of self-defense beyond a reasonable doubt). Therefore, we conclude the district court appropriately denied Kjellberg's motion for judgment of acquittal.

Affirmed.