STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0217

State of Minnesota,
Respondent,

vs.

Adrian Dominique Bell,
Appellant.

Filed January 21, 2025
Affirmed in part, reversed in part, and remanded
Smith, Tracy M., Judge

Washington County District Court
File No. 82-CR-20-2652

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

Kevin M. Magnuson, Washington County Attorney, Andrew T. Jackola, Assistant County Attorney, Stillwater, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the judgment of conviction, appellant Adrian Dominique Bell raises the following arguments. First, he argues that his conviction for first-degree assault of a correctional officer must be reversed and vacated due to insufficient evidence.

Second, he argues in the alternative that the case must be remanded to the district court for a hearing on whether he was entitled to appointment of a different public defender because the district court erroneously failed to conduct a searching inquiry after Bell alleged a conflict of interest with his appointed counsel and because the district court misstated the law regarding the appointment of substitute counsel. Third, he argues that, if we affirm his conviction, we must remand to the district court for correction of the sentencing order because the district court erroneously convicted him of both first-degree assault and the lesser-included offenses of second- and fourth-degree assault. Fourth, in a pro se supplemental brief, Bell argues that the state mishandled evidence on which it made its probable-cause determination.

We affirm Bell's conviction for first-degree assault, but, because the district court erroneously entered convictions for two lesser-included offenses, we reverse and remand to the district court to correct the warrant of commitment to vacate his convictions for second- and fourth-degree assault.

FACTS

The following facts were proved at trial. On June 12, 2020, appellant Adrian Dominique Bell was incarcerated at the Minnesota Correctional Facility at Stillwater (MCF-Stillwater). On that day, Brent Peterson was working as a sergeant on an incident-response team at MCF-Stillwater. Sergeant Peterson was directed to Bell's unit to escort another officer, Officer Collins, because she felt unsafe after a tense interaction with Bell

and another incarcerated person, R.C. Bell later testified that, on that day, he yelled at Officer Collins, after which he obtained a shank.[1]

Bell was told that he and R.C. were being placed under "investigative review." While under investigative review, an incarcerated person is locked in their cell until the incident is investigated.

When Sergeant Peterson reported to the unit, R.C. was involved in conversation with two officers, Officer Sugranis and Officer Hanson. Sergeant Peterson observed that the conversation between Officer Sugranis, Officer Hanson, and R.C. "didn't look like it was going well," and so Sergeant Peterson approached to help. As Sergeant Peterson walked toward R.C., Bell stopped him to speak with him. Bell told Sergeant Peterson that Bell knew that how he (Bell) had interacted with Officer Collins was wrong, but he asked Sergeant Peterson to "leave [R.C.] alone." Sergeant Peterson told Bell that it was out of his hands and directed Bell to return to his cell.

As Sergeant Peterson and Bell spoke, R.C. was speaking nearby with Officers Sugranis and Hanson. R.C. suddenly punched Officer Sugranis. Officers Sugranis and Hanson responded by trying to restrain R.C. Sergeant Peterson joined the officers and tried to assist. Bell briefly observed the altercation and then moved quickly toward Sergeant Peterson. Bell grabbed the shank out of his pocket, drew his arm back, and lunged at Sergeant Peterson, striking him in the side.[2] The shank lay on the floor shortly thereafter.

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[1] The term "shank" is used throughout the trial transcript to describe Bell's weapon. In his testimony, Sergeant Peterson defined "shank" as "a homemade knife."

[2] Bell testified that while he had "a shank in [his] pocket[] and a shank . . . in [his] hand" when he ran toward Sergeant Peterson, "the shank disappeared" before he reached Sergeant

Sergeant Peterson did not initially realize that Bell had stabbed him. Soon after the altercation, though, he discovered a puncture wound in his side because his uniform was sticking to his stomach due to secretions from his wound. A physician who treated Sergeant Peterson that day described the injury as "a penetrating wound to the abdomen." The physician said that wounds to the abdomen are among the type of injuries that, at his hospital, require calling in a full trauma team due to the high risk associated with that type of injury. The physician also said that, after a CT scan, he classified Sergeant Peterson's wound as "superficial" because the wound did not penetrate beyond superficial tissue into Sergeant Peterson's abdominal cavity. Sergeant Peterson's wound took about two to three weeks to heal, and he had a scar from the wound on the date of trial, more than three years after the incident.

Respondent State of Minnesota charged Bell with one count of first-degree assault for use of deadly force against a correctional employee; one count of second-degree assault with a dangerous weapon; and two counts of fourth-degree assault of a correctional employee. At his first hearing on the matter, Bell agreed to be represented by a public defender. At a hearing held five months later, Bell pleaded guilty to first-degree assault, against the advice of his public defender. The district court thereafter accepted Bell's plea of guilty and sentenced him to 120 months' imprisonment.

Bell filed a direct appeal from the judgment of conviction with this court. He argued that he should be permitted to withdraw his guilty plea because the plea was not voluntary

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Peterson, and therefore, Bell did not stab him. The district court did not find Bell's testimony regarding the shank's "disappearance" to be credible.

and intelligent. *State v. Bell*, No. A21-1643, 2022 WL 4126123, at *2 (Minn. App. Sept. 12, 2022). This court agreed, reversed Bell's conviction, and remanded to the district court to permit Bell to withdraw his guilty plea. *Id.* at *3.

On remand, Bell requested withdrawal of his guilty plea. Bell was again represented by the same public defender whom the district court had appointed at the start of his case. At a hearing on the plea-withdrawal request, Bell's public defender indicated that Bell or his family might wish to have private counsel and suggested that it be clarified whether Bell wanted him to continue as defense counsel. The district court explained to Bell that he could continue to be represented by his court-appointed counsel or that he could discharge him and that, if Bell discharged his court-appointed counsel, he would also discharge the entire office of the public defender. The district court asked Bell whether he had thought about his decision. Bell responded that he had a "conflict of interest" with his court-appointed counsel. The district court asked Bell what the conflict of interest was, and Bell replied that it was "personal" based on "previous conversations" between him and his court-appointed counsel.

The district court attempted to clarify what Bell meant by "conflict of interest," explaining to him that a conflict of interest requires more than a disagreement between an attorney and a client "as to how to approach the case." The district court explained to Bell, "[I]f it's something that you just can't work with him, that happens and that means I can discharge him, certainly, but you don't get to pick and choose your public defender." After further exchange between Bell, the district court, and the public defender, Bell stated that

he wished to continue working with the court-appointed public defender. His public defender represented him through the remainder of the case.

The case proceeded to a court trial, at which the state called as witnesses Sergeant Peterson and the physician who treated his wound. Other evidence introduced by the state included a video recording of the incident, the shank, and photographs of the wound. Bell testified in his own defense. He testified that he never intended to kill Sergeant Peterson and that he acted out of anger and with bad judgment when he lunged at him. Bell acknowledged that, before the day of the incident, he had seen at least one person die after being stabbed in the neck with a shank and that he was aware that a shank is capable of causing great bodily harm or death.

The district court found Bell guilty as charged of one count of first-degree assault, one count of second-degree assault, and one count of fourth-degree assault. The district court convicted Bell of first-degree assault and sentenced him to 120 months' imprisonment. No sentence was imposed on the other two counts, although the sentencing order indicates convictions on those counts as well.

Bell appeals.

DECISION

I. The evidence is sufficient to support Bell's conviction for first-degree assault.

Bell argues that the evidence is insufficient to sustain his conviction for first-degree assault because there is a rational alternative hypothesis that he lacked the actual intent or imputed knowledge required to establish the deadly-force element of the offense pursuant to Minnesota Statutes section 609.221, subdivision 2(a) (2018).

When analyzing a challenge to the sufficiency of evidence, appellate courts review the evidence to determine whether a fact-finder "could reasonably conclude that the defendant was guilty of the offense charged" based on "the facts in the record and the legitimate inferences that can be drawn from those facts." *State v. Fairbanks*, 842 N.W.2d 297, 306-07 (Minn. 2014) (quotation omitted). When conducting this review, we "view the evidence in the light most favorable to the verdict and assume that the factfinder disbelieved any testimony conflicting with that verdict." *State v. Chavarria-Cruz*, 839 N.W.2d 515, 519 (Minn. 2013) (quoting *State v. Holliday*, 745 N.W.2d 556, 562 (Minn. 2008)). This standard applies to jury and bench trials. *Holliday*, 745 N.W.2d at 562. We will affirm a conviction 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." *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012).

When a conviction rests on circumstantial evidence, "heightened scrutiny," in the form of a two-step inquiry, applies. *Id.*; *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). First, appellate courts "must identify the circumstances proved, giving deference to the [fact-finder]'s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved." *State v. Anderson*, 789 N.W.2d 227, 241-42 (Minn. 2010) (quotation omitted). "Second, [appellate courts] independently examine the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with a hypothesis other than guilt." *Id.* at 242 (quotation omitted). For circumstantial evidence to be sufficient to sustain a

conviction, the circumstances proved must be consistent with a hypothesis of guilt and inconsistent with any rational hypothesis other than that of guilt. *Al-Naseer*, 788 N.W.2d at 473. Here, both parties agree that the circumstantial-evidence standard applies.

Due process requires that the state prove every element of a charged crime beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364 (1970); *State v. Merrill*, 428 N.W.2d 361, 366 (Minn. 1988); *see* U.S. Const. amend. XIV; Minn. Const. art. I, § 7. Under Minnesota Statutes section 609.221, subdivision 2(a), a person commits first-degree assault if they "assault[] a . . . correctional employee by using or attempting to use deadly force against the . . . employee while the person is engaged in the performance of a duty imposed by law, policy, or rule." Section 609.221 (2018) expressly incorporates the definition of "deadly force" found in Minnesota Statutes section 609.066, subdivision 1 (2018). Minn. Stat. § 609.221, subd. 2(c)(2). Under that provision, "'deadly force' means force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily harm." Minn. Stat. § 609.066, subd. 1.

In accordance with that definition, the element of deadly force may be satisfied in either of two ways: by proof that the defendant used force with the purpose of causing death or great bodily harm or by proof that the defendant used force that the defendant should have known created a substantial risk of causing death or great bodily harm. *State v. Lindsey*, 654 N.W.2d 718, 722-23 (Minn. App. 2002). The first of these methods of proof is "actual intent," and the second is "imputed knowledge." *Id.*

With these principles in mind, we turn to the first step of the circumstantial-evidence analysis: identifying the circumstances proved. *See Anderson*, 789 N.W.2d at 241-42. The

circumstances proved are as follows: Bell was an incarcerated person at MCF-Stillwater on June 12, 2020. Sergeant Peterson was working as a lead corrections officer at MCF-Stillwater on that day. Bell had an argument with a different correctional officer, and he obtained a shank. Bell was placed under investigative review and was angry. When Sergeant Peterson and Bell were speaking, an altercation broke out involving R.C. and two other correctional officers. While Sergeant Peterson attempted to restrain R.C., Bell ran up to Sergeant Peterson, lunged at him with the shank in his hand, and stabbed him in his side. Sergeant Peterson received a puncture wound to his abdomen as a result of the altercation with Bell. Bell testified that, prior to the day of the altercation, he had seen at least one person die after being stabbed in the neck with a shank and was aware that a shank is capable of causing great bodily harm or death.

We turn next to the second step of the circumstantial-evidence analysis: examining whether the circumstances proved support a rational inference inconsistent with a theory other than Bell's guilt. Bell proposes the theory that, while he intended to hurt Sergeant Peterson, he did not mean to cause him great bodily harm or a risk of such harm. He emphasizes that he delivered only one blow with the shank; that the wound that he inflicted was to Sergeant Peterson's abdomen and not to his head, neck, or chest; and that the wound was characterized as "superficial" by the treating physician.

But Bell's hypothesis addresses only one of the two manners in which the state may prove the deadly-force element—namely, actual intent. *See Lindsey*, 654 N.W.2d at 722-23. The deadly-force element may also be proved by imputed knowledge, and Bell's claim about his actual intent, even if true, does not negate the imputed-knowledge manner of

proving the deadly-force element. *See id.* at 723. Regarding imputed knowledge, we conclude that the circumstances proved lead to only one rational inference—specifically, that Bell should have known that stabbing Sergeant Peterson with a shank created a substantial risk of death or great bodily harm. Bell lunged at Sergeant Peterson and stabbed him in the abdomen when Sergeant Peterson was distracted by the altercation with R.C. and vulnerable. The physician who treated Sergeant Peterson testified that the type of injury that Sergeant Peterson suffered met the criteria to trigger "full trauma team activation" at the treating hospital, because it involved "an obvious injury to a certain part of the body that could lead to a life-threatening situation." Bell was not attacking Sergeant Peterson in a careful, precise way in order to avoiding inflicting serious harm. Rather, Bell acted abruptly and out of anger. And Bell, by his own admission, knew that a shank could cause great bodily harm or death. While it is fortunate that Sergeant Peterson's injury was not actually life-threatening, actual harm is not required to prove the deadly-force requirement. *State v. Ortiz*, 626 N.W.2d 445, 449 (Minn App. 2001), *rev. denied* (Minn. June 27, 2001). The only reasonable inference from the circumstances proved is that Bell should reasonably have known that his conduct of lunging at and stabbing Sergeant Peterson created a substantial risk of causing death or great bodily harm.

Because the circumstances proved are consistent with Bell's guilt and inconsistent with any rational hypothesis except that of guilt, the evidence is sufficient to sustain Bell's conviction for first-degree assault.

II. The district court did not abuse its discretion regarding the appointment of substitute counsel.

Bell also argues that the district court violated his right to counsel by "fail[ing] to make a searching inquiry" into his claim that there was a conflict of interest between him and his court-appointed trial counsel and by telling Bell that it was unable to appoint him a different public defender.

The United States and Minnesota Constitutions provide criminal defendants the right to counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. Indigent defendants have the right to court-appointed counsel. *Gideon v. Wainwright*, 372 U.S. 335, 340, 344-45 (1963). "It has long been recognized that the right to counsel is the right to the effective assistance of counsel." *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970). The right to effective counsel includes the "right to representation that is free of conflicts of interest." *Cooper v. State*, 565 N.W.2d 27, 32 (Minn. App. 1997) (quotation omitted), *rev. denied* (Minn. Aug. 5, 1997).

A defendant is entitled to the appointment of substitute counsel "only if exceptional circumstances exist and the demand is timely and reasonably made." *State v. Munt*, 831 N.W.2d 569, 586 (Minn. 2013) (quoting *State v. Worthy*, 583 N.W.2d 270, 278 (Minn. 1998)). Exceptional circumstances are those circumstances that impact an "attorney's ability or competence to represent the [defendant]." *State v. Gillam*, 629 N.W.2d 440, 449 (Minn. 2001). "General dissatisfaction or disagreement with appointed counsel's assessment of the case does not constitute the exceptional circumstances needed to obtain a substitute attorney." *Worthy*, 583 N.W.2d at 279. Nor does "personal tension" in the

attorney-client relationship, *State v. Voorhees*, 596 N.W.2d 241, 255 (Minn. 1999), or mere disagreement with counsel's trial strategies, *Gillam*, 629 N.W.2d at 449-50.

If a "defendant voices serious allegations of inadequate representation, the district court should conduct a searching inquiry before determining whether the defendant's complaints warrant the appointment of substitute counsel." *Munt*, 831 N.W.2d at 586 (quotation omitted). Appellate courts review the district court's decision to grant or deny a request for substitute counsel for an abuse of discretion. *State v. Clark*, 722 N.W.2d 460, 464-65 (Minn. 2006).

Bell argues that the district court erred by failing to make a searching inquiry into his complaint about a "conflict of interest" regarding his court-appointed counsel. Bell raised his complaint during a pretrial hearing at which Bell asked to withdraw his guilty plea. After discussion of that issue, Bell's attorney stated, "I advised Mr. Bell that I would gladly represent him. He did indicate that his family or he might have some desire for private counsel, we should probably clarify that." The district court then stated to Bell:

> [A]t this point [your counsel] has been appointed by the Court to represent you. He's from the Public Defender's Office. You can keep him as your lawyer or if you decide you want to discharge him, you're discharging his entire office. So, you don't get to pick and choose the public defender you get. You get [him], or you get nobody. If you choose to discharge the Public Defender's Office and you have the option of either representing yourself . . . or you can hire a private attorney to represent you. Have you thought about that decision?

In answer, Bell stated that he and his court-appointed counsel had "a conflict of interest." The district court then asked Bell what the conflict of interest was. Bell replied that the conflict was "personal" between him and his public defender based on their "previous

conversations to this point," which he said he preferred to keep off of the record, because "the prosecutor [is] sittin' right there."

The district court then asked Bell's court-appointed counsel to address the alleged conflict. Bell interrupted before his court-appointed counsel could fully answer, stating, "[H]e's not representing me right now." The district court then told Bell that his court-appointed counsel was technically still representing him. It also explained the type of disagreement between an attorney and a client that would not qualify as a conflict of interest:

> [I]f your conflict of interest is that you don't have an agreement as to how to approach the case, that's not a conflict of interest. That's just a lawyer telling a client what they think is best for them and you guys having a disagreement, that happens all the time.

The district court continued, "[I]f it's something that you just can't work with him, that happens and that means I can discharge him, certainly, but you don't get to pick and choose your public defender. It's either him or it's nobody from that office. That's the way it works."

Bell then stated his concerns with his court-appointed counsel's representation, saying that he believed that counsel was "not doing his job" within the bounds of what Bell had asked him to do. The district court explained to Bell:

> Just a difference in opinion and how to handle the case is not a reason for me to discharge [your counsel] based on his work or lack of working for you. That's just a difference of opinion at this point. . . . [I]f you don't want [him] to represent you, he doesn't have to. But there will not be another public defender appointed, so I just want you to know that, and if you want me to discharge his office, I will and then we can certainly give you some time to see if you can hire a private attorney.

Shortly thereafter, Bell's appointed counsel explained what he understood to be the basis of Bell's complaint:

> I advised Mr. Bell, it's my job not only if there are good facts in this case, I would gladly tell him what the good facts are, but if there are bad facts, I am just as obligated, if not more so, to let him know what the facts are and what his exposure is. I also talked to him about the possibility of putting in a lesser included offense . . . . I told Mr. Bell that under the Minnesota Sentencing Guidelines, his exposure is what it is on the assault one. The issue now that he has completed his time and whether or not he were to get a decision or split verdict from a jury in terms of getting convicted on a[n] assault in the third or fourth degree, what that might do in terms of sentencing, but as in terms of negotiating anything on the assault one, there was nothing I could do and nor was [the state] interested in doing anything else . . . .
>
> I also told Mr. Bell when he put his plea in at the beginning, I advised him not to, and after, probably, 30 minutes of me trying to tell him not to plea, [the district court] probably spent another 5, 10 minutes advising him to listen to my advice and not enter a plea. And I understand his frustration, but in no way am I trying to put my finger on the scale for anything other than trying to get him the best defense he has, given the facts, and where he's located.

After some back-and-forth discussion with the district court, Bell ultimately agreed that he would continue to be represented by his appointed counsel.

On this record, the district court did not abuse its discretion by not inquiring further into Bell's complaint or appointing substitute counsel. The district court asked both Bell and his lawyer to explain Bell's complaint. While Bell used the phrase "conflict of interest," it is clear from the record that he was not claiming a conflict of interest on the part of his appointed counsel. A conflict of interest involves "any situation in which a defendant's counsel owes conflicting duties to that defendant and some other third person."

Cooper, 565 N.W.2d at 32 (quotation omitted). Bell gave no indication that his appointed counsel owed conflicting duties to another person.

Instead, as the district court determined, Bell was complaining about "a difference in opinion [in] how to handle the case." Bell's complaint was based on "previous conversations" with his appointed counsel. Those conversations appear to have involved Bell's counsel advising Bell of the strength of the state's evidence against him and the risk that he could now expose himself to a longer sentence by withdrawing his plea and going to trial. Bell's appointed counsel explained the advice that he had provided to Bell and Bell's decision to not follow that advice, including once when the district court also encouraged Bell to follow counsel's advice and not enter a guilty plea. Bell's complaint regarding his court-appointed counsel thus focused on his dissatisfaction with defense counsel's assessment of the case and counsel's strategic decisions. Neither is enough to constitute exceptional circumstances. *See Worthy*, 583 N.W.2d at 279; *Gillam*, 629 N.W.2d at 449-50. Because Bell failed to raise serious allegations of inadequate representation rising to the level of exceptional circumstances, *see Munt*, 831 N.W.2d at 586, the district court did not abuse its discretion by not appointing substitute counsel.

Additionally, we are unconvinced by Bell's argument that the district court misstated the law by telling him that it could not appoint substitute counsel. As we have stated, "it would be an incorrect statement of the law to say that a criminal defendant may not have a different public defender under any circumstances." *State v. Clark*, 698 N.W.2d 173, 178 (Minn. App. 2005), *aff'd*, 722 N.W.2d 460 (Minn. 2006). But the district court did not say that. Instead, the district court accurately described Bell's limited options given

that Bell had failed to allege exceptional circumstances entitling him to substitute counsel. Accordingly, we conclude that the district court did not make an erroneous statement of the law regarding its power to appoint substitute counsel and, as a result, did not abuse its discretion.

III. The district court erred by entering convictions for lesser-included offenses.

Bell argues, and the state concedes, that the district court erred by convicting him of two lesser-included offenses of the crime for which he was convicted and sentenced. We agree.

A defendant "may be convicted of either the crime charged or an included offense, but not both." Minn. Stat. § 609.04, subd. 1 (2018). An "included offense" includes "a lesser degree of the same crime or a lesser degree of a multi-tier statutory scheme dealing with a particular subject." *State v. Hackler*, 532 N.W.2d 559, 559 (Minn. 1995). Bell was convicted of three counts: (1) first-degree assault for the use of deadly force against a correctional employee; (2) second-degree assault with a dangerous weapon; and (3) fourth-degree assault against a correctional employee. While a sentence was imposed only on the first count, the warrant of commitment reflects Bell's conviction on all three counts. Because both second-degree assault and fourth-degree assault are lesser-included offenses of first-degree assault, the district court erred by entering convictions on all three counts. *See State v. Walker*, 913 N.W.2d 463, 467 (Minn. App. 2018) (determining that district court erred by listing conviction for lesser-included offense on warrant of commitment).

Accordingly, we reverse and remand to the district court with instructions to vacate the convictions for second- and fourth-degree assault while leaving intact the findings of guilt on those counts. *See id.* at 467-68.

IV. Bell's pro se supplemental brief does not raise a valid claim.

In his pro se supplemental brief, Bell complains of "the state's handling of evidence" underlying its determination of probable cause to charge him. He appears to argue that a correctional employee attempted to interview Bell while Bell's public defender was present, which, he contends, would have been an "unlawful act."

"We will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority." *State v. Bartylla*, 755 N.W.2d 8, 22-23 (Minn. 2008). Bell does not cite any caselaw, statute, rule, or other legal basis for his argument, referring only broadly to "due process" and "the right to equal justice." In addition to the absence of legal authority on the issue, Bell does not provide an evidentiary basis within the record for his claim. Because Bell's pro se arguments are "lacking in supportive arguments . . . or legal authority" and prejudicial error is not "obvious on mere inspection," we do not consider his claim. *See id.* at 23.

Affirmed in part, reversed in part, and remanded.