STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1798

State of Minnesota,
Respondent,

vs.

Deavion Ladell Beasley, Sr.,
Appellant.

Filed September 14, 2020
Reversed
Ross, Judge

Beltrami County District Court
File No. 04-CR-17-3118

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

David L. Hanson, Beltrami County Attorney, Michael V. Mahlen, Assistant County Attorney, Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Leah C. Graf, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Bjorkman, Judge; and Bryan, Judge.

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

ROSS, Judge

During Deavion Ladell Beasley Sr.'s trial for unlawful possession of a firearm, a jury learned that a masked man attacked Beasley with a pry bar, that Beasley acquired a

gun from his car and fired it once toward the masked attacker, and that "Deavion Ladell Schrade" was a juvenile adjudicated delinquent for a crime of violence in 2009. The district court denied Beasley's requests for self-defense and necessity instructions, and the prosecutor, without introducing any evidence of the fact at trial or offering any reasoning, simply told the jury during closing arguments that Beasley's last name was previously Schrade. The jury found Beasley guilty. Beasley appeals his conviction on various theories. Because the state offered no evidence that Beasley and Schrade are the same person, the evidence is insufficient to support the jury's finding that Beasley was ineligible to possess a firearm, and we therefore reverse.

FACTS

The state charged appellant Deavion Ladell Beasley Sr. with one felony count of unlawful possession of a firearm, Minn. Stat. § 624.713, subd. 1(2) (2016), alleging that in October 2017, Beasley fired a gun at a masked man who attacked him with a pry bar despite Beasley's being ineligible to possess firearms based on a 2009 delinquency adjudication for a crime of violence. The case proceeded to trial, where the state's case-in-chief consisted of testimony from a bystander who witnessed Beasley's encounter with the masked man, surveillance-video footage, and officer testimony recounting the ensuing investigation.

The man we will call Bystander recounted seeing an altercation between four combatants—two on each side—after an SUV and a silver car pulled into a gas-station parking lot. Bystander saw two men exit the SUV. We will call those men Adversary and Ambusher. Adversary moved to confront the silver car's occupants while Ambusher crept

forward toward the car, a weapon in his hand and a mask covering his face. Bystander saw two men exit the silver car. One was Beasley and the other we will call Cousin. Adversary approached Beasley and Cousin, shouting. Ambusher charged to strike Beasley, but Beasley retrieved a gun from the car. Adversary and Ambusher fled. Bystander heard a gunshot. He dialed 9-1-1.

The jury saw video-surveillance footage of the incident. The video depicts Beasley and Cousin exiting the silver car before moving momentarily out of the frame. They appear again with Adversary also in view. Cousin begins punching Adversary. Ambusher emerges from the side, striking Beasley with a pry bar. Beasley reaches into the car and withdraws a handgun. He points it at Ambusher, who flees on foot. Beasley fires one shot and the bullet casing lands on the roof of the silver car. Beasley and Cousin reenter the silver car and drive away.

Investigating officers testified, recounting how they located the silver car, Beasley, and Cousin at a nearby home. Beasley told police that he neither possessed nor fired a gun, refusing to allow his hands to be tested for gunshot residue. Officers searched the roadside between the gas station and the home, but they found no gun.

The prosecutor showed the jury a redacted Beltrami County District Court order adjudicating a juvenile named "Deavion Ladell Schrade" delinquent on March 10, 2009, for fifth-degree drug possession. The document contained no age or identifying information beyond the name and the general descriptor, "child." The prosecutor introduced no witness or document stating directly or even implying that the defendant

Deavion Beasley Sr. and the 2009 juvenile Deavion Schrade are the same person. The prosecutor concluded the state's case-in-chief.

Beasley testified in his own defense. He asserted that the gun was not his, that he feared for his life when Ambusher attacked, and that he decided to retrieve the gun and fire it because Ambusher was attacking him. After he fired the gun, he got into the car to get away. He told the jury that, as he and Cousin drove from the gas station, Cousin took the gun from Beasley and tossed it out the window. On cross-examination, the prosecutor never asked Beasley whether he was the person identified as Deavion Schrade in the 2009 delinquency adjudication, whether he ever had been adjudicated delinquent, whether as a child he answered to the last name Schrade, or even whether he had ever been called by any name other than Deavion Beasley Sr.

The district court denied Beasley's requests for self-defense and necessity instructions, reasoning that the evidence refuted elements of each. Without any explanation, the prosecutor flatly declared to the jury during closing arguments, "[Y]ou have learned that in 2009 Mr. Beasley, then known by Deavion Ladell S[c]hrade, was adjudicated for a felony, controlled[-]substance crime. And, therefore, he is ineligible to possess the firearm that he possessed on October 2017." The jury found Beasley guilty, and the district court sentenced him to 60 months in prison.

Beasley appeals his conviction.

D E C I S I O N

Beasley urges us to reverse his conviction because the evidence is insufficient to sustain it, or alternatively to remand for a new trial because the district court improperly

denied his requests for jury instructions and the prosecutor referenced a fact not in evidence during his closing argument. Beasley briefed a separate argument challenging whether a juvenile adjudication is a crime of violence as defined by statute, but he waived the challenge during oral arguments given the recent supreme court decision, *Roberts v. State*, 945 N.W.2d 850 (Minn. 2020). In light of the state's failure to offer sufficient direct or circumstantial evidence that Beasley and Schrade are the same person so as to establish that Beasley was ineligible to possess a firearm, the evidence on that element is insufficient, and we must reverse his conviction with no need to address his other contentions.

To prove Beasley guilty of unlawful possession of a firearm, the state was required to prove, in part, that Beasley had "been convicted of, *or adjudicated delinquent* or convicted as an extended jurisdiction juvenile for committing . . . a crime of violence." Minn. Stat. § 624.713, subd. 1(2) (emphasis added); *see also* Minn. Stat. § 624.712, subd. 5 (2016) (defining crimes of violence); *Roberts*, 945 N.W.2d at 854. We resolve this appeal by deciding the single issue of whether the state met its burden of proof on this element.

Beasley argues that the state's only evidence on the element—a 2009 delinquency-adjudication record naming "Deavion Ladell Schrade"—is insufficient proof of his ineligibility. The state's first defense is to urge us not to address this issue. It does so by contending that Beasley forfeited his right to argue the point by failing to raise it in the district court. The state offers no caselaw supporting its implied premise that a defendant must do more to preserve the right to challenge the sufficiency of the evidence on appeal than pleading not guilty and holding the state to its burden to prove guilt beyond a reasonable doubt. We are satisfied that the Constitution would not tolerate the notion. And

"[a] defendant who challenges the sufficiency of the evidence presented at trial . . . raises essentially the same argument on appeal that he presented to the jury at trial: that he was not guilty of a crime." *State v. Pakhnyuk*, 926 N.W.2d 914, 919 (Minn. 2019). Beasley neither conceded his ineligibility nor forfeited his right to be convicted only on evidence that establishes his guilt beyond a reasonable doubt. This takes us to the standard of review.

The parties' arguments suggest some lack of clarity on our standard of review. If direct evidence proves an element, we apply traditional scrutiny, reviewing the evidence in a light favorable to the verdict and considering whether it permitted the jury to find the defendant guilty beyond a reasonable doubt. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). But when an element depends on circumstantial evidence, we conduct a more exacting, two-step analysis, first considering the circumstances proved while deferring to the jury's acceptance of the state's evidence, and second determining whether those circumstances preclude any rational hypothesis inconsistent with guilt. *Id.* Beasley and the state contend that the direct-evidence standard applies here. This is not so.

Direct evidence is the kind of evidence that proves a fact in itself without requiring the jury to draw any inferences or make any presumptions, while circumstantial evidence requires each juror to reason further and infer some additional fact. *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017). The prosecutor provided direct evidence that "Deavion Ladell Schrade" was a "child" in 2009 and was adjudicated delinquent for a specified crime. But this is not direct evidence that Deavion Ladell Beasley Sr. was adjudicated delinquent for having committed that crime. To so find, each juror would have had to reason further, inferring that the 2009 Schrade child was the 2017 Beasley adult.

Because jurors had to take this additional inferential step to find Beasley guilty, we hold that the state offered only circumstantial evidence on the element.

Our holding distinguishes this case from *State v. West*, 221 N.W. 903 (Minn. 1928). The *West* court explained that "identity of names is sufficient prima facie evidence of identity," and it held that judgments of convictions against "Harry Weldon" (the appellant's true name) were "sufficient evidence to justify the jury in finding beyond a reasonable doubt that defendant is the same person as so named in the records of the prior convictions." *Id.* at 904. We read *West* as suggesting that a judgment of conviction is direct evidence of the conviction when the defendant's name is the same as the name that appears on the record—the "identity of names." *Id.* When this occurs, the identity of names is prima facie evidence that the defendant is the same person named in the record. The state mistakenly suggests that *West*'s identity-of-names analysis linked a true name to an alias because the case was captioned as "West" while the defendant's name was "Weldon." But the *West* court clarified that the "identity of names" it addressed was the fact that the defendant's *true* name—"Harry Weldon"—was identical to the name "Harry Weldon" appearing in the conviction records. *Id.* If the record on appeal demonstrated here either that Deavion Beasley Sr. is Deavion Schrade's true name, or that Deavion Schrade is or was Deavion Beasley Sr.'s true name, *West* would support the state's position. But the record shows neither.

We are not persuaded to a different conclusion by the state's reliance on the Wisconsin Supreme Court's decision in *Block v. State*, 163 N.W.2d 196 (Wis. 1968). The *Block* court stated, "There is a rule that *identity of names* will be accepted as prima-facie

evidence of the identity of persons," but it applied that rule in a case in which the appellant's name, unlike Beasley's name, was identical to the conviction records admitted into evidence. *Id.* at 198 (emphasis added).

The state maintains that the evidence here established the identity of names because "[t]he lion's share of [Beasley's] name was referenced" in the adjudication record. In other words, because the defendant and the named juvenile share a first and middle name, but not the last name or suffix, we ought to *infer* that the two people are the same. Rather than lead us to a direct-evidence inquiry, the state's argument here simply reinforces our decision to apply a circumstantial-evidence standard.

We first consider the circumstances proved by the state consistent with guilt. *Harris*, 895 N.W.2d at 598. Those circumstances are as follows: "Deavion Ladell Schrade" was a child adjudicated delinquent for a crime of violence in Beltrami County in 2009; Beasley and Schrade have the same first and middle names (Deavion Ladell); Beasley was charged as an adult with a crime that occurred in Beltrami County in 2017; and Beasley fled the scene, either he or Cousin disposed of the gun, and he lied to investigators about possessing or shooting the gun. The state argues that other circumstances support the jury's verdict, pointing to Beasley's failure to object to the adjudication record's admission and to the prosecutor's remark during closing argument. But Beasley's failure to object to the state's evidence or to the prosecutor's unsubstantiated claim during closing argument has no bearing on whether the state offered evidence sufficient to prove Beasley's guilt.

We next consider whether the circumstances proved are consistent with Beasley's guilt and inconsistent with any rational hypothesis other than guilt. *Id.* at 598. It is true that

Beasley's flight from the scene and lying to police about handling and shooting the gun suggest his consciousness of guilt. *See State v. McDaniel*, 777 N.W.2d 739, 746 (Minn. 2010). But this circumstantial evidence is just as consistent with Beasley's consciousness of guilt about a potential assault charge as it is to the actual illegal-possession charge, and the circumstantial evidence of the contested element is tissue thin. Looking at that evidence, we can see that the circumstances are consistent with guilt, but we cannot conclude that they are inconsistent with any other rational hypothesis.

We begin with the common understanding that a name by definition literally *names*, or identifies, a particular person and that a name that differs materially from a person's actual current name presumably names, or identifies, some *different* person. This presumption, bolstered by every defendant's presumption of innocence, imposes a solid obstacle for the state here, where the trial record includes absolutely no other circumstance to connect the delinquent child and the charged adult. We cannot say that, under the circumstances proved, it is unreasonable to infer that the 2009 "child" is someone other than Beasley even while crediting the state's "lion's share" contention; that is, the sharing of the seemingly unique first- and middle-name combination does show familiarity, but not necessarily common identity. The "senior" designation for Beasley undermines the state's position on this point, since it suggests that Beasley's family passes names, including unique names or combinations, between generations. Might Schrade and Beasley be relatives similarly named? John Adams and John Quincy Adams would not find the idea unreasonable. Similarly, regarding the state's emphasis on the 2009 Schrade delinquency occurring in the same county as the 2017 Beasley gun possession, we observe that the two

Adams presidents were born in the same city. And in the same vein, by omitting any reference to the adjudicated child's age at the time of the 2009 adjudication, the record offers nothing from which one can reasonably infer that he and Beasley share the same birth year or even the same birth *decade*, let alone the same birth date. A reasonable hypothesis other than guilt plainly exists here.

We add that this case is unusually perplexing. We decide this appeal, as we must, solely on the evidence presented to the jury in the face of evidence about which the jury was never, but presumably easily could have been, informed. A discussion between the district court and the attorneys leaves no doubt that the attorneys believed that Schrade and Beasley are one and the same. Before trial, the prosecutor moved to preclude Beasley's attorney from "discussing the facts of Mr. Beasley's underlying adjudication for a crime of violence" so that Beasley could "offer[] an explanation or something along those lines," and, agreeing with the prosecutor, the district court held that Beasley "cannot . . . testify to the facts" of the adjudication. In other words, although we hold that the evidence actually presented to the jury (and the prosecutor's unsubstantiated statement about that evidence) cannot support the ineligibility element, the fact might have been effortlessly established. Oddly, it was *Beasley's counsel* who had suggested introducing evidence that would have proved the element and *the prosecutor* who succeeded in opposing it.y

Irony aside, the jury never received any evidence making the connection, and the prosecutor's unexplained declaration during closing argument is no substitute. We must reverse Beasley's conviction for lack of sufficient evidence.

Reversed.