**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A24-0189**

State of Minnesota,
Respondent,

vs.

Charles Edward Love,
Appellant.

**Filed January 13, 2025**
**Affirmed**
**Johnson, Judge**

Ramsey County District Court
File No. 62-CR-22-5976

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Paul J. Maravigli, Special Assistant Public Defender, Minneapolis, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Bjorkman, Judge; and Wheelock, Judge.

**NONPRECEDENTIAL OPINION**

**JOHNSON**, Judge

A Ramsey County jury found Charles Edward Love guilty of burglary and aggravated robbery based on evidence that he stole money from the office of a liquor store

and injured a store owner when she attempted to recover the money from him. We conclude that the evidence is sufficient to support both convictions. Therefore, we affirm.

**FACTS**

During the afternoon of September 29, 2022, Y.H. was working alone at a liquor store she co-owns in Maplewood. The store consists of a large rectangular room with a check-out counter and a small office at the front of the store near the door. The interior door leading to the office, which is solid and unmarked, is usually closed but unlocked.

At approximately 3:00 p.m., a man entered the store and asked for wine. Y.H. pointed him toward the back of the store. The man said that he needed help, so Y.H. followed him to the back of the store while the man asked her questions about wine. Y.H. became suspicious when the man repeatedly walked past the places to which she was directing him and continuously talked on his cell phone.

A surveillance video-recording shows that, unbeknownst to Y.H., a second man entered the liquor store while the first man and Y.H. were in the back of the store. The video-recording shows that the second man walked toward the office door, opened it, and entered the office. A short time later, Y.H. returned to the check-out counter.

The first man eventually walked to the check-out counter to purchase a small single-serving bottle of liquor, which cost $1.31. He did not have enough money, but Y.H. allowed him to complete the purchase because she wanted him to leave.

As the first man was checking out and leaving the store, Y.H. noticed that he kept looking at the office door. After the first man had left, Y.H. attempted to enter the office, but she was unable to open the door because someone was pushing back on the door from

the inside. Y.H. eventually pushed the door open wide enough to see a man, later identified as Love, in the office. Y.H. asked Love what he was doing there, and he said that he was there to use the restroom. Y.H. noticed that a safety box where cash normally is kept was open and that the cash was gone. Y.H. told Love that she was going to call the police and attempted to close the door and leave. A struggle ensued when Love attempted to keep the door open. Y.H. saw that both of Love's pockets "were stuffed full with cash," and she told him that she needed her money back. When Y.H. reached for the money in Love's pockets, he hit her hand away. Love pushed Y.H., and she fell against the inside of the office door. Love then pushed Y.H. to the side, opened the office door, and left the store.

Y.H. followed Love outside and again asked him to give the money back to her. Love responded aggressively, as if he was going to hit Y.H. An eyewitness saw the altercation, called 911, and took photographs of Love and his accomplice. The eyewitness saw both men drive away in a silver sedan.

When police officers arrived, Y.H. told them that her hand was injured in the incident, and the officers took a photograph of it. Y.H. testified at trial that her hand later swelled, became discolored, and caused her pain but that she did not see a doctor "because there was no one to watch [her] store." Y.H.'s husband, a co-owner of the store, told a police officer that Love had taken $901 in cash and two cartons of cigarettes.

Several police officers identified Love in the eyewitness's photographs. Investigators learned that Love had met with his parole officer just a couple hours before the incident. At that meeting, which occurred in a parking lot, Love's parole officer took several photographs of Love, a man accompanying him, and their silver car. The parole

officer's photographs and the eyewitness's photographs depict the same distinctive patterned shirt worn by Love's accomplice.

In October 2022, the state charged Love with first-degree burglary, in violation of Minn. Stat. § 609.582, subd. 1(c) (2022), and first-degree aggravated robbery, in violation of Minn. Stat. § 609.245, subd. 1 (2022). The case was tried to a jury on four days in September 2023. After the state rested its case-in-chief, Love moved for a judgment of acquittal on the two first-degree charges. The district court denied the motion. At the request of the parties, the district court instructed the jury on the lesser-included offenses of theft and simple robbery. The jury found Love guilty of all four charges. The district court imposed concurrent sentences of 140 months of imprisonment on the convictions of first-degree burglary and first-degree aggravated robbery. Love appeals.

**DECISION**

Love argues that the evidence is insufficient to support his convictions of first-degree burglary and first-degree aggravated robbery.

In analyzing an argument that the evidence is insufficient to support a conviction, this court undertakes "a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient." *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). We assume that "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). We will not overturn a verdict if the jury, "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." *Ortega*, 813 N.W.2d at 100.

## I. Burglary

Love first argues that the evidence is insufficient to support his conviction of first-degree burglary on the ground that the state did not prove that consent to enter the liquor store's office was expressly withdrawn before he entered the office.

A person commits first-degree burglary if he or she "*enters a building without consent* and with intent to commit a crime, or *enters a building without consent* and commits a crime while in the building," and, in addition, the building is an occupied dwelling, the burglar possesses a dangerous weapon, or the burglar assaults a person within the building. Minn. Stat. § 609.582, subd. 1 (emphasis added). In this case, the state charged Love with the third type of first-degree burglary, which requires proof that he "assault[ed] a person within the building." *See id.*, subd. 1(c).

Love's argument focuses on the phrase, "enters a building without consent." Specifically, Love's argument is based on the statutory definition of that phrase, which states, in part, "Whoever enters a building while open to the general public does so with consent *except when consent was expressly withdrawn before entry*." Minn. Stat. § 609.581, subd. 4 (2022) (emphasis added). Love contends that there is no evidence that consent to enter the office was withdrawn before he entered the office. In response, the state contends that Love had consent to enter the part of the store in which merchandise was displayed but did not have consent to enter the liquor store's office. The state contends

that, by entering the office, Love exceeded the scope of the consent given to him, which makes it unnecessary to consider whether any consent was withdrawn.

There is no dispute that Love had consent to enter the liquor store, which was open to the general public. To resolve Love's argument, we must determine whether Love had consent to enter the liquor store's *office*. If he did, we would consider whether such consent was withdrawn before Love entered the office. But if Love never had consent to enter the office, we need not consider whether any consent was withdrawn.

Both parties cite *State v. McDonald*, 346 N.W.2d 351 (Minn. 1984), a case with analogous facts. The defendant in *McDonald* "entered a drugstore during business hours but at a time when the pharmacy was closed and, without consent, entered a closed storage room that was off limits to the general public and from there tried to gain access to the locked pharmacy for the purpose of stealing controlled substances." *Id.* at 352. The supreme court affirmed the defendant's burglary conviction by stating, "We uphold the conviction on the ground that . . . defendant *exceeded the scope of the consent* given him and other members of the public and entered the storage room with intent to gain access to the locked pharmacy from there." *Id.* (emphasis added) (citing Minn. Stat. § 609.58, subd. 1(1) (1982)).

The supreme court revisited *McDonald* in *State v. Lopez*, 908 N.W.2d 334 (Minn. 2018). In that case, the defendant, a hotel guest, walked through the halls of the hotel, checking for unlocked room doors. *Id.* at 335. After finding an unlocked room door, he entered the room and stole a wallet and a cell phone. *Id.* On appeal from his conviction of burglary, the defendant argued that the state failed to prove that he entered the hotel

building without consent. *Id.* at 336. The supreme court rejected the argument based on *McDonald*. *Id.* at 337. The *Lopez* court explained that, in *McDonald*, "[w]e recognized that consent to enter a building may be limited to specific areas" such that "a person enters a building without consent under the burglary statute when he or she enters a portion of a building where they do not have permission to be." *Id.* The *Lopez* court explained further that the burglary conviction in *McDonald* was affirmed because the defendant "exceeded the scope of his license to be present in the drugstore by entering a nonpublic area of the store—the storage room." *Id.* The *Lopez* court applied *McDonald* by reasoning that "[w]hen Lopez entered [another guest's] hotel room, he exceeded the scope of his consent to be present in the hotel building" and "therefore entered a building without consent." *Id.* at 338.

In this case, the evidence shows that the office is located near the front of the liquor store, to the side of the check-out counter. The door to the office is a solid, unmarked door. The door usually is kept closed. In addition, the evidence shows that Love and another man engaged in a coordinated effort to cause Y.H. to go to the back of the store so that she could not see Love enter the office. This evidence is sufficient to support a finding that the area behind the closed door was not open to the general public. Consequently, the evidence is sufficient to support a finding that Love exceeded the scope of consent given to him. Love does not argue that the verdict depends on circumstantial evidence, which would implicate a heightened standard of review. *See State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017); *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). Consequently, we may

conclude that the evidence is sufficient if the jury "could reasonably conclude that" Love exceeded the scope of consent when he entered the office. *See Ortega*, 813 N.W.2d at 100.

Under the applicable caselaw—which recognizes that "a building open to the public may still have portions of it that are not open to the public and that a person enters a building without consent if he or she enters a portion of a building that is not open to the public"—Love entered the building without consent when he exceeded the scope of consent to enter the liquor store by entering the office. *See Lopez*, 908 N.W.2d at 338 (citing *McDonald*, 346 N.W.2d at 352). Because Love exceeded the scope of consent, it is unnecessary to consider whether consent to enter the office was expressly withdrawn.

Thus, the evidence is sufficient to support Love's conviction of first-degree burglary.

## II. Aggravated Robbery

Love also argues that the evidence is insufficient to support his conviction of first-degree aggravated robbery on the ground that the state did not prove that he inflicted bodily harm on Y.H.

A person commits first-degree aggravated robbery if he or she, "while committing a robbery, . . . inflicts bodily harm upon another." Minn. Stat. § 609.245, subd. 1. Love does not dispute that Y.H. sustained an injury to her hand or that her injury constitutes bodily harm. He contends only that the state did not prove that he "inflicted" Y.H.'s bodily harm on her "while committing" a robbery. He argues that the state did not carry its burden of proof because Y.H. "did not testify at any point that he inflicted harm upon her" and did not testify to "feeling any pain during any of the physical contact made by" him.

In *State v. Dorn*, 887 N.W.2d 826 (Minn. 2016), an assault case, the supreme court stated that the word "inflict" means "to lay (a blow) on" or "cause (something damaging or painful) to be endured." *Id.* at 832 (citing *Webster's Third New International Dictionary* 1160 (2002)). The supreme court concluded that Dorn "inflicted" bodily harm on another person by shoving him in the chest, which caused him to fall backward into a bonfire. *Id.* at 829, 833. The supreme court reasoned that Dorn's conduct constituted infliction of bodily harm "because she intentionally applied nonconsensual force against" the other person. *Id.* at 832. In addition, the supreme court assumed without deciding that "an 'infliction' requires direct causation" and concluded that the evidence was sufficient to prove direct cause because "Dorn pushed [the victim] hard enough to cause him to lose his balance within a few feet of hot embers, and [the victim] fell into the fire within moments of Dorn's push." *Id.* at 833.

In this case, Y.H. testified that her hand was injured during the incident involving Love, but she did not testify with specificity about exactly when her hand was injured or which act of Love caused the injury. Nonetheless, the evidence is sufficient to allow the jury to find that Love inflicted bodily harm on Y.H. Y.H. testified that she struggled to close the office door while Love pushed to open it and that Love prevailed by pushing with more force, which caused her hand to slip off the door. Y.H. also testified that Love hit her hand with his own hand when she attempted to remove money from his pockets. Even though Y.H. did not pinpoint the precise moment in time when her hand was injured, the evidence is sufficient to prove beyond a reasonable doubt that the injury occurred between the time that Love entered the office and the time that Love drove away in a silver car and

that Love's conduct was the direct cause of the injury. Again, Love does not argue that the verdict depends on circumstantial evidence, which would implicate a heightened standard of review. *See Harris*, 895 N.W.2d at 600; *Moore*, 846 N.W.2d at 88. Consequently, we may conclude that the evidence is sufficient if the jury "could reasonably conclude that" Love engaged in an act that directly caused Y.H.'s hand injury. *See Ortega*, 813 N.W.2d at 100. Given the evidence, the jury reasonably could have found that Love inflicted bodily harm on Y.H. either when he forcefully pushed the office door open or when he hit her hand to prevent her from removing money from his pockets.

Thus, the evidence is sufficient to support Love's conviction of first-degree robbery.

**Affirmed.**