STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0606

In the Matter of the Welfare of: N. K. D., Child.

Filed December 2, 2024
Reversed
Cochran, Judge

Blue Earth County District Court
File No. 07-JV-23-171

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, Anna Kidman, Certified Student Practitioner, St. Paul, Minnesota (for appellant N.K.D.)

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

Patrick R. McDermott, Blue Earth County Attorney, Jonathan M. Janssen, Assistant County Attorney, Mankato, Minnesota (for respondent State of Minnesota)

Considered and decided by Frisch, Presiding Judge; Connolly, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal from a delinquency adjudication for interfering with an emergency call, appellant argues that the evidence was insufficient to prove his guilt beyond a reasonable doubt. Because we agree that the evidence was insufficient, we reverse.

FACTS

In January 2023, respondent State of Minnesota filed a delinquency petition charging appellant N.K.D., born in 2007, with one count of misdemeanor domestic assault and one count of gross-misdemeanor interference with an emergency telephone call in violation of Minnesota Statutes sections 609.2242, subdivision 1(2), and 609.78, subdivision 2(1) (2022). The delinquency petition alleged that N.K.D. was physically fighting with both his older and younger sister at their residence in November 2022. It also alleged that his older sister, N.D., attempted to call 911 multiple times, but N.K.D. repeatedly took her phone and ended the call. Lastly, the petition alleged that N.K.D. pushed N.D. to the ground and punched her head and her shoulder.

N.K.D. pleaded not guilty, and the case was set for a bench trial in February 2024. At the trial, the state called N.D. and two responding law-enforcement officers to testify. N.K.D. did not testify.

N.D.'s Trial Testimony

N.D., who was 21 years old at the time of trial, testified that she lived in a Mankato apartment with N.K.D., two sisters, and their mother. On the night of the incident, N.D. was home with her sisters and N.K.D. Their mother was at work. N.D. testified that there was "a regular argument and then it got heated." The state asked whether "the level of escalation of the argument [led] to [her] calling 911." N.D. responded, "Yes."

Law-Enforcement-Officer Testimony

The two law-enforcement officers who responded to the residence also testified. The first officer testified that he received a call for service on the night of the incident

regarding "a domestic that was occurring" at an apartment. The officer received information that "the complainant's little brother was causing a disturbance and, at some point, had pushed the complainant, and then we received another phone call where continuous arguing and yelling could be heard in the background as well."

When the officers arrived at the apartment complex, the alleged disturbance had subsided. The first officer spoke with N.K.D., separately from his siblings. According to the first officer, N.K.D. admitted that he had been arguing with his sisters and that he made "multiple attempts to prevent them from calling 911." The first officer also testified that N.K.D. admitted to taking his sister's phone away from her. Over N.K.D.'s objection, the state introduced the recorded body-worn-camera footage of the first officer's conversation with N.K.D. as a trial exhibit.

In the recording, N.K.D. admitted to the officer that he and his younger sister were arguing over a set of keys and that he grabbed his younger sister. N.K.D. said that he and one of his older sisters, N.D., then got into a "big argument" because N.D. tried to call the police. The recording also captures the officers having a telephone call with the siblings' mother after they talked with N.K.D. and N.D. The mother told the police on the phone that she arranged for N.D. to stay elsewhere for the night to avoid further disputes.

The second officer testified that she received a call for "a disturbance at an apartment complex" on the night of the incident. According to the second officer, the 911 dispatcher told her that "the caller thought somebody was trying to kick their door in." The second officer provided no further testimony about the caller or the call. The second officer testified that, after arriving, she spoke with N.D. at the apartment. N.D. told the officer

that there had been a heated argument that day involving her siblings. The officer testified that N.D. reported that she tried to call 911 multiple times but was disrupted by her younger brother, N.K.D., taking the phone or ending the call. The state asked the second officer whether the situation was "resolved by someone leaving the home that evening [due to safety concerns]." She responded, "Yes."

Following the second officer's testimony, the state rested. The sole exhibit admitted at trial was the first officer's body-worn-camera recording.

The District Court Dismisses Count I

N.K.D. moved for acquittal on both counts after the state rested. The state agreed to dismissal of the domestic-assault count, but objected to dismissal of the count of interfering with an emergency call. The state maintained that the trial evidence established that "there was an elevated, heated argument," "there were safety concerns present necessitating one of the household members to leave," and there were "multiple attempts to call 911." The district court dismissed the domestic-assault count but denied N.K.D.'s motion with respect to the interfering-with-an-emergency-call count. The district court then took the matter under advisement.

The District Court Finds N.K.D. Guilty

In its written findings of fact, conclusions of law, and order, the district court found N.K.D. guilty of interfering with an emergency call. The district court concluded that N.K.D. intentionally "interrupted, disrupted, impeded, or interfered with an emergency call" and that an "emergency existed" at the time the call was made. At the ensuing

dispositional hearing, the district court adjudicated N.K.D. delinquent and placed him on supervised probation for up to 365 days.

This appeal follows.

DECISION

N.K.D. challenges his adjudication for interfering with an emergency call in violation of Minnesota Statutes section 609.78, subdivision 2(1), arguing the evidence was insufficient to support the adjudication because the state failed to prove beyond a reasonable doubt that an emergency existed at the time of the call. This argument has merit and requires reversal of the adjudication.

Due process requires that the state prove each element of a charged offense beyond a reasonable doubt. *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023); *see also In re Winship*, 397 U.S. 358, 368 (1970) (holding that juvenile-delinquency charges, like non-juvenile criminal charges, must be proved beyond a reasonable doubt). "We use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence." *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). Under our applicable standard of review, we conduct "a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the [fact-finder] to reach its verdict." *Lapenotiere v. State*, 916 N.W.2d 351, 360-61 (Minn. 2018) (quotation omitted); *see also In re Welfare of C.J.W.J.*, 699 N.W.2d 328, 334 (Minn. App. 2005) (applying the same standard in the juvenile-delinquency context). In addition, we assume that the fact-finder

disbelieved evidence that conflicts with the verdict. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

To secure a delinquency adjudication under section 609.78, subdivision 2(1), the state must prove beyond a reasonable doubt that the juvenile intentionally interrupted, disrupted, impeded, or interfered with an "emergency call." Minn. Stat. § 609.78, subd. 2(1). An "emergency call" is defined as "(1) a 911 call; (2) any call for emergency medical or ambulance service; or (3) any call for assistance from a police or fire department or for other assistance needed in an emergency to avoid serious harm to person or property," and in all cases an emergency must exist. *Id.*, subd. 3(a) (2022); *see also State v. Hersi*, 763 N.W.2d 339, 343-44 (Minn. App. 2009) (holding that one element of interference with an emergency call is "that an emergency existed" at the time the call is placed).

The term "emergency" as used in section 609.78 is not defined. *See generally* Minn. Stat. § 609.78 (2022). When a statute does not define a term, we construe the term according to its "common and approved usage." *In re Welfare of Child. of S.R.K.*, 911 N.W.2d 821, 827 (Minn. 2018) (quotation omitted); *see also* Minn. Stat. § 645.08(1) (2022). In *State v. Brandes*, we discerned the common and approved usage of "emergency" for purposes of section 609.78 by looking to the dictionary definition. 781 N.W.2d 603, 605-06 (Minn. App. 2010); *see also State v. Powers*, 962 N.W.2d 853, 858 (Minn. 2021) ("When the words are not defined in the statute, we may look to dictionary definitions to determine a term's plain and ordinary meaning." (quotation omitted)). We observed that an "emergency" is "[a] serious situation or occurrence that

happens unexpectedly and demands immediate action," or "[a] condition of urgent need for action or assistance." *Brandes*, 781 N.W.2d at 606 (quoting *The American Heritage College Dictionary* 449 (3d ed. 2000). In *Brandes*, we applied this definition to determine whether the evidence was sufficient for the jury to have reasonably found that an emergency existed when the defendant interfered with the 911 call in question. *Id.* at 606-07.

Here, N.K.D. concedes that he interfered with N.D.'s 911 calls but contends that the state failed to prove beyond a reasonable doubt that an emergency existed at the time of the calls. Applying the definition of "emergency" from *Brandes*, we agree with N.K.D. that the state failed to meet its burden to demonstrate the existence of an emergency. The evidence at trial, viewed in the light most favorable to the verdict, established the following. The police were called to an apartment complex after receiving calls about someone being pushed by their little brother. N.K.D. admitted to police that he and his younger sister were arguing over a set of keys and that his older sister tried to call 911. He also told the first officer that he and N.D. got into a "big argument" because N.D. called 911. According to N.D., the argument between the siblings became heated and that led her to call 911 multiple times. And, as N.K.D. admits, he then disrupted the 911 calls by either taking N.D.'s phone or ending the calls. But there was no testimony or evidence indicating that N.K.D. injured either of his sisters.[1] Nor was there any testimony that N.K.D. caused

[1] The first officer's testimony that the dispatcher reported that the complainant was being pushed by her little brother, by itself, is not evidence of an injury. A child can push someone without injuring them, and no evidence suggested that N.K.D.'s pushing caused any injury to N.D.

them to fear for their safety. And by the time the police arrived at the apartment a few minutes after receiving the call for assistance, the argument between the siblings had dissipated. Taken as a whole, the evidence fails to demonstrate an "emergency" because there was no evidence of "[a] serious situation or occurrence that . . . demands immediate action" or "[a] condition of urgent need for action or assistance." *Id.* (quotations omitted). At most, the evidence shows that there was a heated dispute between siblings that may have involved some pushing and the dispute dissipated on its own before officers responded to the apartment. We therefore conclude that the evidence was insufficient to prove beyond a reasonable doubt that an emergency existed at the time N.D. called 911.

The state's reliance on the district court's order to argue that we should reach a contrary result is unavailing. The district court determined that the state proved beyond a reasonable doubt that "an emergency existed" based on the following findings: (1) "[N.D.] testified an argument among the siblings escalated to the point she needed to call 911," (2) "[m]ultiple phone calls were made to 911 [that evening] regarding the incident at the apartment," and (3) the siblings' mother "was not home at the time of the incident." We are not persuaded that these findings sufficiently establish an emergency for three reasons. First, the district court's logic is circular. "[T]he fact that emergency service or assistance is requested does not mean that an emergency actually exists." *Hersi*, 763 N.W.2d at 343. That N.D. called 911 or subjectively believed she should call 911 does not necessarily establish the existence of an emergency at the time of the call. These findings fail to identify the emergency, itself. Second, the fact that the siblings' mother was away does not suggest the existence of an emergency. Parents often leave siblings of a suitable age

home without a parent. Without further context, this fact does not support the existence of an emergency. Finally, the district court's analysis did not apply the definition of "emergency" adopted in *Brandes* and therefore its analysis is not based on the applicable law. For these reasons, the district court erred when it determined that the state met its burden to prove that an emergency existed.

Our conclusion that the evidence was insufficient to prove the existence of an emergency is reinforced by contrasting the evidence in this case with the evidence in *Brandes* and *Hersi* in which we determined there was sufficient evidence of an emergency at the time of the 911 call. In *Brandes*, we concluded that an emergency existed at the time of a 911 call based on the following evidence: (1) the defendant "argued vociferously" with his mother and his brother "over an extended period of time," (2) the defendant "refused to leave despite being told multiple times to do so," (3) the mother testified that she was afraid of the defendant and did not know what he was capable of, and (4) the defendant "wrestle[d]" with his brother before the mother called 911. 781 N.W.2d at 605-07. In *Hersi*, there was testimony that the 911 caller told officers that the appellant "struck her, took the phone away from her, and broke it." 763 N.W.2d at 345. There was also testimony that the caller "stated that she feared for her safety when she called 911." *Id.* In *Hersi*, there was testimony about physical violence between adults that went well beyond pushing among young siblings. And there was testimony in both *Brandes* and *Hersi* that someone feared for their safety when they called 911. Here, by contrast, such details are absent, confirming our conclusion that the evidence did not demonstrate beyond a reasonable doubt that N.K.D.'s dispute with his sisters rose to the level of an emergency.

In sum, we conclude that the testimony and exhibits at trial were insufficient to prove beyond a reasonable doubt that there was an emergency occurring when N.D. called 911. Without sufficient evidence of the existence of an emergency at the time of a 911 call, the adjudication of interfering with an emergency call cannot stand. We therefore reverse N.K.D.'s delinquency adjudication for interference with an emergency call.[2]

Reversed.

[2] Because we reverse N.K.D.'s adjudication, we need not reach his argument about the district court's findings in its dispositional order.