STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1244

State of Minnesota,
Respondent,

vs.

Jodi Linn Anderson,
Appellant.

Filed June 9, 2025
Affirmed
Bjorkman, Judge

Hennepin County District Court
File Nos. 27-VB-23-102160, 27-VB-23-102164, 27-VB-23-181448,
27-VB-23-191901, 27-VB-23-225273

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

Calvin T. Lee, Campbell Knutson, P.A., Eagan, Minnesota (for respondent)

Allison F. Eklund, Eklund Law, PC, Roseville, Minnesota (for appellant)

Considered and decided by Bond, Presiding Judge; Bjorkman, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges her five petty-misdemeanor adjudications for violating a city nuisance ordinance prohibiting habitually barking dogs, arguing that (1) the ordinance is

preempted by state law, (2) the right-to-farm statute precludes prosecution for violating the ordinance, and (3) insufficient evidence supports the adjudications. We affirm.

FACTS

Appellant Jodi Linn Anderson lives on an approximately five-acre property located in the City of Minnetrista. The property is zoned "agricultural," and Anderson describes herself as a "full-time farmer." Anderson's farming activities include keeping a variety of animals and selling the animals and their products. To protect the animals from predators, Anderson keeps Great Pyrenees guard dogs.[1] According to Anderson, the dogs protect by barking "if they perceive a threat." After barking, they "stop and they listen." They continue to bark if the threat proceeds but stop doing so when the threat abates.

Two of Anderson's neighbors repeatedly complained to police about the dogs barking. Police reports show that officers visited Anderson's property approximately 34 times beginning in 2020 in response to these complaints. For example, on May 4, 2023, police heard a dog barking for approximately seven to eight minutes. While they listened, there were no noises coming from neighboring properties and there were no vehicles or pedestrians on the road. Three days later, police heard a dog bark for approximately 30 minutes. On August 13, police heard "multiple dogs barking" for more than five minutes. On August 27, police heard a dog barking for approximately 11 minutes. Finally, on October 6, police heard a dog barking for approximately 11 minutes. On each of those

[1] It is unclear how many dogs Anderson kept during the relevant period. Anderson testified inconsistently at trial, at one point asserting she had two guard dogs and later stating she had three.

occasions, officers parked approximately 100 yards away from Anderson's residence and listened for barking.

The city has an ordinance providing:

> It is unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes that are audible from any neighboring property. A dog that violates this subdivision three or more times in a three month period is a public nuisance.

Minnetrista, Minn., Code of Ordinances § 1110.17, subd. 1 (2009).

Based on the complaints and police investigations, the police cited Anderson for seven ordinance violations covering the period of April through November 2023. Anderson moved to dismiss the citations, arguing that her agricultural activities and the barking of her dogs "are protected by and immunized" by Minnesota's right-to-farm statute, Minn. Stat. § 561.19 (2024), and by a statute allowing guard animals to protect against wolves, Minn. Stat. § 97B.645, subds. 1, 12(b) (2024) (wolf-protection statute). The district court denied the motion, concluding that if the right-to-farm statute applies there are fact issues as to whether Anderson's activities amount to an "agricultural operation" and "whether the dog barking . . . was protected activity or a nuisance."

At the bench trial, respondent State of Minnesota presented testimony from two police officers and a neighbor, who testified consistent with the facts above. The neighbor also testified about the impact the dog barking has had on his quality of life. He explained he has "[n]o peaceful enjoyment" and that, when he tries to do yardwork, all he can hear is barking. Anderson testified in her own defense. She explained that the property has been

farmed for approximately 50 years. And she described, in detail, the type and number of animals she raises, the equipment she uses, and her sales of various farm animals and products.

The district court found Anderson guilty of five ordinance violations. It adjudicated them as petty misdemeanors and imposed a total fine of $640.[2]

Anderson appeals.

DECISION

I. Anderson forfeited her preemption arguments.

Anderson first contends that the ordinance is preempted by the right-to-farm statute, Minn. Stat. § 561.19, and the wolf-protection statute, Minn. Stat. § 97B.645, subds. 1, 12(b). Anderson did not present these arguments to the district court. Accordingly, we do not consider them. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (arguments raised for the first time on appeal are generally forfeited); *Johnson v. Paynesville Farmers Union Coop. Oil Co.*, 817 N.W.2d 693, 707 n.11 (Minn. 2012) (declining to consider federal preemption argument raised for the first time on appeal).

II. The right-to-farm statute does not preclude this prosecution.

The right-to-farm statute provides:

> (a) An agricultural operation is not and shall not become a private or public nuisance after two years from its established date of operation as a matter of law if the operation:
>
> (1) is located in an agriculturally zoned area;

[2] The city prosecuted Anderson for misdemeanor violations of the ordinance. It is unclear from the record why the district court adjudicated her for petty misdemeanors.

> (2) complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and
>
> (3) operates according to generally accepted agricultural practices.

Minn. Stat. § 561.19, subd. 2(a). An "agricultural operation" is "a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products." *Id.*, subd. 1(a). And "generally accepted agricultural practices" are defined as "those practices commonly used by other farmers in the county . . . in which a nuisance claim is asserted." *Id.*, subd. 1(c).

By its terms, the right-to-farm statute does not apply "to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance." *Id.*, subd. 2(c)(2). Minn. Stat. § 609.74(1), (3) (2024) broadly defines as a misdemeanor nuisance offense the maintenance or permission of "a condition which unreasonably annoys, injures or endangers the safety, health, moral, comfort, or repose of any considerable number of members of the public" and "any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided."

Anderson generally argues that, because she kept the guard dogs as part of her agricultural practices, the right-to-farm statute immunizes her from prosecution for violating the ordinance. We are not convinced. It is undisputed that the ordinance is a law declaring that the act of keeping habitually barking dogs constitutes a public nuisance. And Anderson does not contest the city's authority to enact such an ordinance under Minn. Stat.

§ 412.221, subd. 23 (2024). Because the right-to-farm statute does not apply to prosecutions for maintaining a public nuisance, it does not preclude this prosecution.

III. Sufficient evidence supports Anderson's convictions.

When evaluating the sufficiency of the evidence, we carefully review the record "to determine whether the evidence, viewed in the light most favorable to the conviction, was sufficient to permit the fact-finder to reach its verdict." *State v. Olson*, 982 N.W.2d 491, 495 (Minn. App. 2022). The same standard of review is used in bench trials and jury trials. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). Under this standard, we view the evidence "in the light most favorable to the verdict" and assume that the fact-finder "disbelieved any evidence that conflicted with the verdict." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

Anderson's sufficiency challenge does not focus on the evidence supporting the ordinance violations—that there were five instances in which her guard dogs habitually barked "three or more times in a three month period." Rather, Anderson contests the district court's implicit rejection of her defense under the right-to-farm statute. We are not persuaded by Anderson's sufficiency argument for three reasons.

First, our review of the record reveals ample support for the district court's finding that Anderson violated the ordinance five times. At trial, the state presented evidence that police officers responded to complaints of barking dogs approximately 34 times. When responding, officers parked about 100 yards from Anderson's property and listened to see if the dogs barked for longer than five minutes. This evidence is sufficient to support all

five of Anderson's petty-misdemeanor adjudications for violating the habitually-barking-dog provision of the nuisance ordinance.

Second, we discern no error by the district court in failing to expressly reject Anderson's right-to-farm defense.[3] In cases tried without a jury, the district court must make a finding as to guilt within seven days of the trial. Minn. R. Crim. P. 26.01, subd. 2(a). When a district court's more detailed findings "omit[] a finding on any issue[s] of fact essential to sustain the general finding, it must be deemed to have made a finding consistent with the general finding." *Id.*, subd. 2(e); *see also State v. Li*, 948 N.W.2d 151, 154 (Minn. App. 2020) (deeming finding on element of petty misdemeanor offense implicitly made based on finding of guilt). That is the situation here.

As previously noted, the district court denied Anderson's motion to dismiss the citations, determining, in part, that whether the right-to-farm statute applies is a question of fact. At trial, Anderson testified and presented other evidence regarding the historic use of her property for farming, the nature of her current farming operations, and her use of guard dogs to safeguard her livestock. The district court's seven-page verdict included findings that (1) the property is zoned agricultural, (2) Anderson raises a variety of farm animals and sells them or their products, (3) Anderson owns two tractors and other farm

[3] Anderson's reliance on the wolf-protection statute is unclear. The statute permits a person to use a guard animal to "harass, repel, or destroy wolves to protect a person's livestock." *See* Minn. Stat. § 97B.645, subds. 1, 12(b). It does not define how a dog or other guard animal may be used or describe any such use as a "generally accepted agricultural practice" or otherwise reference the right-to-farm statute. *See id.* Anderson does not explain the significance of this statute, other than asserting her use of guard dogs is allowed to protect livestock. We do not consider inadequately briefed issues. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (concluding an issue not briefed is deemed forfeited).

equipment, and (4) Anderson keeps guard dogs that protect the other animals by barking when they perceive a predatory animal approaching. Anderson presented no evidence, and the district court made no findings, that Anderson's use of guard dogs is a "generally accepted agricultural practice" as the right-to-farm statute requires. Minn. Stat. § 561.19, subd. 2(a)(3). While the district court's reference in the verdict to having already found that the right-to-farm statute does not protect Anderson may be inaccurate, we are satisfied that rejection of the defense may be inferred from the findings the court did make and its guilty verdict.

Finally, Anderson does not point us to precedential authority, and we have found none, that establishes a defendant who is prosecuted for violating a nuisance ordinance may assert the right-to-farm statute as an affirmative defense. *But see Wendinger v. Forst Farms, Inc.*, 662 N.W.2d 546, 553 (Minn. App. 2003) (concluding that prior version of statute did not create affirmative defense to private nuisance claim when operation was "in compliance with generally accepted agricultural practices"). Indeed, recognition of such a defense would be inconsistent with the legislature's decision that the protection of the right-to-farm statute does not apply "to any prosecution for the crime of public nuisance."[4] *See* Minn. Stat. § 561.19, subd. 2(c)(2).

[4] We also note that Anderson cites no apposite authority for the proposition that her keeping of guard dogs is itself an "agricultural operation" that would be protected under the right-to-farm statute. *See Hiebert Greenhouses of Minn., Inc. v. City of Mountain Lake*, No. A23-1870, 2024 WL 3407697, at *3 (Minn. App. July 15, 2024) (noting that the "threshold determination" under the statute is whether property constitutes an agricultural operation), *rev. denied* (Minn. Nov. 19, 2024); *see also* Minn. R. Civ. App. P. 136.01, subd. 1(c) (stating nonprecedential cases may be cited for persuasive authority).

Because the right-to-farm statute does not preclude Anderson's prosecution for violating the ordinance, and the record supports the district court's verdict, we affirm.

Affirmed.