STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0837

State of Minnesota,
Respondent,

vs.

Travis Clay Andersen,
Appellant.

Filed May 19, 2025
Affirmed in part, reversed in part, and remanded
Slieter, Judge

Carver County District Court
File No. 10-CR-23-8

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

Mark Metz, Carver County Attorney, Kelly J. Small, Assistant County Attorney, Chaska, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this appeal from the judgment of conviction of two counts of fourth-degree assault, appellant argues that (1) the state failed to prove beyond a reasonable doubt that appellant intentionally spit on law-enforcement officers; (2) the district court erred in

adding a three-month enhancement to the duration of appellant's permissive consecutive sentence; and (3) the imposition of two consecutive sentences unduly exaggerated the criminality of his conduct. Appellant raises additional claims in a *pro se* supplemental brief.

There is sufficient evidence proving appellant intentionally spit on law-enforcement officers because no rational inference other than guilt exists, and we affirm his convictions. But, because the district court erred by adding a three-month enhancement to the duration of appellant's sentence on each charge, we reverse and remand for resentencing. And, because we remand for resentencing, we do not consider whether the district court abused its discretion by imposing consecutive sentences. Finally, we do not consider appellant's *pro se* claims because they are conclusory and lack argument and authority.

FACTS

Respondent State of Minnesota charged appellant Travis Clay Andersen with two counts of fourth-degree assault in violation of Minn. Stat. § 609.2231, subd. 1(c)(2) (2022). The following facts derive from Andersen's jury trial.[1]

On December 13, 2022, Andersen appeared for a hearing on a separate criminal charge at the Carver County Courthouse. Andersen was seated at the counsel table with his wrists handcuffed and attached to a chain around his waist and with his feet shackled. After the hearing, Andersen's mother started speaking with him while they were still in the courtroom. Andersen started raising his voice and an officer, to deescalate the situation,

[1] Andersen represented himself at trial.

stood between Andersen and his mother and moved Andersen's chair. Andersen became upset. He told the officer not to touch his chair and that he could not prevent him from speaking with his mother. Andersen then stood up and spit in the officer's face. In response, the officer, along with three other officers that were in the courtroom, restrained Andersen on the floor. Andersen physically resisted by pulling against the restraints. As officers struggled with Andersen on the floor, Andersen spit on another officer.

Security footage from the courtroom was received into evidence and the two officers on whom Andersen spit testified at trial. Andersen called his mother and another officer to testify in his defense.

The jury found Andersen guilty as charged. The district court, during the subsequent sentencing hearing, entered judgment of convictions and imposed two 17.4-month sentences consecutively. The parties agree that both sentences include a three-month sentencing enhancement.

Andersen appeals.

DECISION

I. Sufficient evidence supports Andersen's convictions of fourth-degree assault.

When evaluating the sufficiency of the evidence, we review the record to determine "whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach their verdict." *State v. Olhausen*, 681 N.W.2d 21, 25 (Minn. 2004). We assume the jury believed evidence that supported the verdict and disbelieved any evidence that conflicted with the verdict. *Id.* "[Appellate courts] will not disturb the verdict if the jury, while acting with proper regard for the presumption of

innocence and regard for the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense." *Id.* at 25-26.

If the state relied on circumstantial evidence to prove an element of an offense, we apply a heightened standard of review. *State v. Al-Naseer*, 788 N.W.2d 469, 471 (Minn. 2010). We review the sufficiency of circumstantial evidence by conducting a two-step analysis. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, we identify the circumstances proved and assume that the jury resolved any factual disputes in a manner that is consistent with the jury's verdict. *Id.* at 598-99. Second, we independently examine the reasonableness of the inferences the jury could draw from those circumstances proved. *Id.* at 599. All circumstances proved must be consistent with guilt and inconsistent with any rational hypothesis except that of guilt. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010). We will uphold the verdict if the circumstances proved form "a complete chain" which "leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt." *State v. Petersen*, 910 N.W.2d 1, 7 (Minn. 2018) (quoting *Al-Naseer*, 788 N.W.2d at 473).

A person who "intentionally throws or otherwise transfers bodily fluids or feces at or onto" a peace officer is guilty of fourth-degree assault. Minn. Stat. § 609.2231, subd. 1(c)(2).

The following were the circumstances proved that are consistent with the jury's verdict:

- Andersen was upset with an officer for preventing him from speaking with his mother.

- Andersen was using an elevated voice while expressing his anger with the officers.

- When officers stood between Andersen and his mother, Andersen stood up and spat in an officer's face.

- Officers attempted to restrain Andersen on the floor.

- As officers struggled with Andersen on the floor, and as he continued to resist the officers, Andersen spat on another officer.

Andersen concedes that the circumstances proved are consistent with the jury's verdict. He instead focuses on the second step, arguing that the circumstances proved support a rational hypothesis other than guilt, namely that he inadvertently spat on the officers.

An alternative hypothesis to guilt may not be based on "mere conjecture." *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008). Andersen claims that spitting on the officers "was an inadvertent byproduct of him expressing his anger." But under the first prong of the sufficiency analysis, we resolve factual disputes in a manner that is consistent with the verdict. *Silvernail*, 831 N.W.2d at 598-99. An officer testified that Andersen spat on them when he was upset, and we presume the jury found the officer's testimony credible. *See State v. Johnson*, 568 N.W.2d 426, 435 (Minn. 1997) (noting appellate courts defer to jury credibility determinations). And though Andersen testified that any spitting on the officers was inadvertent, the jury resolved that factual dispute in favor of the state. Further, Andersen points to no other circumstances proved to support the inference that he accidentally spat on the officers. Again, the jury resolved any factual dispute on this issue in favor of the state. *Silvernail*, 831 N.W.2d at 598-99. Moreover, the circumstances prove

that Andersen spat on not one, but two officers, which leads to a strong inference that the act was not accidental. *See State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002) (noting that "possibilities of innocence do not require reversal of a jury verdict so long as the evidence taken as a whole makes such theories seem unreasonable").

In sum, the circumstances proved form "a complete chain" which "leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt." *Petersen*, 910 N.W.2d at 7 (quoting *Al-Naseer*, 788 N.W.2d at 473).

II. The district court erred by adding a three-month enhancement to each of Andersen's permissive consecutive sentences.[2]

Whether a sentence conforms to the requirements of a statute or the sentencing guidelines is a question of law reviewed *de novo*. *State v. Williams*, 771 N.W.2d 514, 520 (Minn. 2009).

Andersen claims that the district court erred by applying a three-month enhancement when calculating the duration of his permissive consecutive sentences. We agree.

The presumptive length of a sentence is determined by the cell that intersects a defendant's criminal-history score and the severity level of the offense, using the appropriate sentencing grid. Minn. Sent'g Guidelines 2.C.1 (2022). At the time of sentencing, Andersen had a criminal-history score of 19 and fourth-degree assault is a

[2] Andersen was sentenced for convictions associated with the following district court file numbers: 10-CR-22-1120, 10-CR-23-7, 10-CR-23-8, and 10-CR-23-152. This sentencing hearing is the subject of several appeals before our court, including A24-0835, A24-0836, and A24-0838.

severity level one offense. Minn. Sent'g Guidelines 4.A (2022). Because Andersen's criminal-history score is greater than six, his convictions of fourth-degree assault are presumptive prison commitments. *Id.*

Certain felony convictions "may be sentenced consecutively to a prior felony sentence that has not expired or been discharged." Minn. Sent'g Guidelines 2.F.2.a(1)(i) (2022) (providing for permissive consecutive sentences for crimes on the list in section 6). Andersen's convictions of fourth-degree assault, in violation of Minn. Stat. § 609.2231, subd. 1(c)(2), qualify for permissive consecutive sentencing. Minn. Sent'g Guidelines 6 (2022) (listing fourth-degree assault as a crime eligible for permissive consecutive sentences). The district court imposed permissive consecutive sentences to Andersen's convictions of fourth-degree assault.

When a felony offense is sentenced consecutively to another felony, the district court must use a criminal-history score of zero. Minn. Sent'g Guidelines 2.F.2.b (2022). Again, fourth-degree assault is a severity level one offense. Minn. Sent'g Guidelines 4.A (2022). The presumptive sentence duration for fourth-degree assault is 12 months. *Id.* The district court increased the presumptive duration by 20%, 2.4 months, as allowed by Minn. Sent'g Guidelines 2.C.1.b (2022).

A district court must add an additional three months to a defendant's sentence in certain circumstances.

> An additional three months must be added to the duration of the appropriate cell time, which then becomes the presumptive duration, when:
>
> (1) at least one-half custody status point is assigned; and

> (2) the offender's total Criminal History Score exceeds the maximum score on the applicable Grid (i.e., 7 or more).
>
> Three months also must be added to the lower and upper end of the range provided in the appropriate cell on the applicable Grid.

Minn. Sent'g Guidelines 2.B.2.c (2022).

For each fourth-degree-assault conviction, the district court applied the three-month enhancement and sentenced Andersen to 17.4 months' imprisonment, consecutive to sentences previously imposed.

A criminal-history score of zero must be used when determining the duration of permissive consecutive sentences. Minn. Sent'g Guidelines 2.F.2.b (2022). But the three-month enhancement may be applied only when a defendant's criminal-history score exceeds the maximum score on the applicable grid, which is a criminal-history score of seven or more. *See* Minn. Sent'g Guidelines 2.B.2.c (2022). Thus, the district court erred in applying the three-month enhancement once it decided to impose permissive consecutive sentences, in violation of the guidelines. *Id.* We therefore reverse and remand for resentencing.[3]

III. Andersen's *pro se* claims are unsupported.

In addition to challenging the sufficiency of the evidence, Andersen also states that there were procedural issues, false testimony, and judicial misconduct. All the claims are conclusory and lack argument and authority.

[3] Because we remand for resentencing, we do not consider whether the district court abused its discretion by imposing permissive consecutive sentences.

Minnesota courts require *pro se* criminal defendants to comply with standard rules of court procedure and "[n]o extra benefits will be given to *pro se* litigants." *State v. Seifert*, 423 N.W.2d 368, 372 (Minn. 1988). And it is well established that this court need not consider claims that are unsupported by argument and authority. *State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) ("We will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority."). Because Andersen's separate *pro se* claims are without argument and authority, we decline to consider them. *State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002) ("The brief contains no argument or citation to legal authority in support of the allegations and we therefore deem them waived.").[4]

Affirmed in part, reversed in part, and remanded.

[4] Perhaps anticipating this court's decision to not consider the claims, Andersen states that "any conclusory allegations without supporting factual averment to a claim on which relief can be based, I cite the following: *Reynoldson v. Shillinger*, 907 F.2d 124, 126-27 (10th Cir. 1990)." Because this is a criminal appeal, not an inmate's complaint brought under 42 U.S.C. § 1843 against the government, *Reynoldson* is not relevant.