

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-338
A10-339**

State of Minnesota,
Respondent,

vs.

Ezzy Earl Pratt,
Appellant.

**Filed January 25, 2011
Affirmed
Bjorkman, Judge**

Hennepin County District Court
File Nos. 27-CR-09-35551, ~~27-CR-09-13663~~

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Paul R. Scoggin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Lydia Villalva Lijó, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Toussaint, Judge; and Stoneburner, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

This is a consolidated appeal from appellant's convictions of third-degree assault and second-degree assault arising out of two separate incidents. Appellant argues that the evidence is insufficient to support the convictions. We affirm.

FACTS

On January 12, 2009, a Hennepin County library security guard escorted four people, including appellant Ezzy Pratt, out of the library for misusing a library computer. Pratt became verbally abusive toward the security guard. As the security guard reached for his portable radio, Pratt ran away. The security guard pursued Pratt, and Pratt pushed the security guard, causing him to fall backward and hit his head, rendering him unconscious. Police officers arrived at the scene shortly thereafter and were told that an African-American female with long hair wearing a black and yellow or tan top had pushed the security guard and run toward Shingle Creek Parkway. The officers located Pratt at a bus stop on Shingle Creek Parkway "dressed as a woman wearing a Harley Davidson jacket with a tan stripe across the front." The officers brought Pratt back to the library, where several people identified him as the person who pushed the security guard. Pratt was charged with third-degree assault, in violation of Minn. Stat. § 609.223, subd. 1 (2008).

On July 9, 2009, Pratt and two women approached a high school student as she returned to school after lunch. Pratt punched the student in the face. He then pulled a box cutter from a bag and swung it at the student, threatening to "beat" her and to "slice"

or “cut” her. Pratt also threatened a school employee who attempted to intervene. Pratt was charged with second-degree assault, in violation of Minn. Stat. § 609.222, subd. 1 (2008).¹

Pratt waived his right to a jury trial and agreed to a stipulated-facts trial on both charges. *See* Minn. R. Crim. P. 26.01, subd. 3. The district court found Pratt guilty as charged. This appeal follows.

DECISION

A defendant who agrees to a stipulated-facts trial under Minn. R. Crim. P. 26.01, subd. 3, may challenge the sufficiency of the evidence to sustain a resulting conviction. *State v. Eller*, 780 N.W.2d 375, 379 (Minn. App. 2010), *review denied* (Minn. June 15, 2010). In considering a claim of insufficient evidence, our review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the district court to reach the resulting decision. *Id.* (citing *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989)). We will not disturb the decision if the district court, 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. *Id.* at 380 (citing *State v. Alton*, 432 N.W.2d 754, 756 (Minn. 1988)).

Pratt argues that the evidence is insufficient to support his convictions. A conviction of assault requires proof beyond a reasonable doubt that the defendant

¹ Pratt was also charged with two counts of terroristic threats, in violation of Minn. Stat. § 609.713, subd. 1 (2008). He does not challenge his conviction on these counts.

committed “an act . . . with intent to cause fear in another of immediate bodily harm or death” or intentionally inflicted or attempted to inflict “bodily harm upon another.” *See* Minn. Stat. § 609.02, subd. 10 (2008). Third-degree assault involves the infliction of “substantial bodily harm” upon another, Minn. Stat. § 609.223, subd. 1, and second-degree assault involves the use of a “dangerous weapon,” Minn. Stat. § 609.222, subd. 1.

Third-degree assault (library)

The record establishes, and Pratt does not dispute, that Pratt was one of the four people who was asked to leave the library on January 12, 2009. And Pratt does not dispute that the record evidence establishes that one of the four people pushed the security guard, causing him to suffer substantial bodily harm. Pratt merely contends that there is insufficient record evidence to establish that he was the person who assaulted the security guard. *See State v. Gluff*, 285 Minn. 148, 150-51, 172 N.W.2d 63, 64-65 (1969) (requiring sufficient proof of identity to support conviction). We disagree.

Although the security guard does not recall the assault, he specifically remembers that Pratt was confrontational immediately before the assault. And the witness statements and police reports consistently point to Pratt as the assailant. They indicate that the assault was committed by a person with long hair who was dressed as a woman and wore a dark-colored top with a yellow or tan stripe. Officers arriving at the library were told by multiple witnesses that the person who pushed the security guard had left in the direction of Shingle Creek Parkway. When the officers pursued the suspect in that direction, they found an individual who matched the witnesses’ descriptions. That person was identified as Pratt. The officers who secured Pratt subsequently returned him to the

library, where multiple witnesses confirmed that he was the person who had pushed the security guard. We conclude that this evidence is more than sufficient to prove that Pratt assaulted the security guard.

Second-degree assault (school)

Pratt's sufficiency challenge to his second-degree-assault conviction also is narrow. He points to discrepancies in the evidence as to whether he was armed with a box cutter,² specifically, to the fact that certain witnesses did not recall seeing a box cutter. But both the student victim and the school employee who attempted to intervene in the incident reported that Pratt retrieved and wielded a box cutter. They also recounted Pratt's threats to "cut" or "slice" both of them, and the school employee told police that Pratt extended the blade and held the box cutter "like he was gonna use it." This evidence amply establishes that Pratt assaulted the student with a dangerous weapon. Accordingly, Pratt's challenge to his second-degree assault conviction also fails.

Affirmed.

² Pratt does not dispute that a box cutter is a dangerous weapon. *See* Minn. Stat. § 609.02, subd. 6 (2008) (defining "dangerous weapon" as any device designed or used as a weapon and capable of producing or intended to produce death or great bodily harm).