NOT DESIGNATED FOR PUBLICATION

No. 124,878

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

GERALD D. HAMBRIGHT,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; BRUCE C. BROWN, judge. Opinion filed April 28, 2023. Reversed.

Kasper Schirer, of Kansas Appellate Defender Office, for appellant.

Matt J. Maloney, assistant district attorney, *Marc Bennett*, district attorney, and *Derek Schmidt*, attorney general, for appellee.

Before SCHROEDER, P.J., WARNER and CLINE, JJ.

SCHROEDER, J.: After Gerald D. Hambright was charged with criminal possession of a weapon, the law changed. Hambright now appeals from his conviction and sentence for one count of criminal possession of a weapon, primarily arguing the evidence was insufficient to support his conviction. Because we find his argument is correct and controls our resolution of this appeal, we decline to address Hambright's other claims of error. We reverse his conviction and vacate his sentence.

FACTS

On March 21, 2019, Sedgwick County Sheriff's Deputy Austin Cameron was dispatched to a rural road to investigate a "suspicious character call." Cameron found Hambright resting on the side of the road. The relevant portion of their encounter was recorded on Cameron's body camera, which was admitted at trial. Hambright told Cameron he had been walking for several hours, had no place to go, and no destination in mind. He also told Cameron he was dehydrated. Cameron told Hambright he had not done anything wrong and offered to drive him to a gas station in Wichita, which Hambright accepted.

At Cameron's request, Hambright removed a sheathed knife from his belt and turned it over to Cameron before getting into Cameron's patrol vehicle. Cameron later discovered Hambright had previously been convicted of a felony, so he ultimately collected the knife as potential evidence. The knife and several pictures of it were admitted as evidence at trial.

The State filed charges more than a year later in May 2020, at which time Hambright was charged with a single count of criminal possession of a weapon. Based on concerns about Hambright's competency, the matter did not proceed to trial until December 2021. A week before trial, Hambright filed a motion to dismiss, arguing there was no evidence he possessed a knife within the meaning of K.S.A. 2018 Supp. 21-6304(c)(1) based on our Supreme Court's guidance in *State v. Harris*, 311 Kan. 816, 467 P.3d 504 (2020). Specifically, Hambright asserted the State had not shown he possessed a dagger, dirk, stiletto, switchblade, or straight-edged razor. The district court denied Hambright's motion after allowing the State to amend its complaint, charging Hambright with possession of a dagger.

Cameron was the State's only witness at trial. He repeatedly referred to the object Hambright possessed as a "knife," but at no point in his testimony did Cameron use the word "dagger," much less explain what characteristics of the knife made it a dagger. After Cameron's testimony, Hambright stipulated to a prior felony conviction, which prevented him from possessing a weapon.

The jury convicted Hambright of one count of criminal possession of a weapon. The district court sentenced him to nine months' imprisonment. Additional facts are set forth as necessary.

ANALYSIS

The State Failed to Present Sufficient Evidence to Support Hambright's Conviction

In relevant part, the State's amended complaint provided: "Hambright . . . unlawfully [possessed] a weapon, to-wit: dagger." Hambright argues the State presented insufficient evidence to support his conviction. Specifically, he asserts the State failed to present any evidence that the object he possessed was a dagger. His argument is persuasive.

> "'When the sufficiency of the evidence is challenged in a criminal case, we review the evidence in a light most favorable to the State to determine whether a rational factfinder could have found the defendant guilty beyond a reasonable doubt. An appellate court does not reweigh evidence, resolve conflicts in the evidence, or pass on the credibility of witnesses.'" *State v. Aguirre*, 313 Kan. 189, 209, 485 P.3d 576 (2021).

To some extent, this issue also requires us to interpret K.S.A. 2018 Supp. 21-6304, which presents a question of law subject to unlimited review. *State v. Stoll*, 312 Kan. 726, 736, 480 P.3d 158 (2021).

K.S.A. 2018 Supp. 21-6304(c)(1) provides a "'[k]nife' means a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character." Hambright relies heavily on *Harris*, where our Supreme Court found the residual clause in K.S.A. 2019 Supp. 21-6304(c)(1)—"any other dangerous or deadly cutting instrument of like character"—unconstitutionally vague. 311 Kan. at 826. Hambright argues that without presenting any evidence as to what characteristics of the object he possessed made it a dagger, the State is essentially "[reducing] *Harris* to window dressing."

The State's amended complaint specifically alleged Hambright unlawfully possessed "a weapon, to wit: dagger." Hambright argues that by specifically alleging he possessed a dagger, the State was required to prove this fact to the jury. In support, Hambright cites *State v. Trautloff*, 289 Kan. 793, 802-03, 217 P.3d 15 (2009), which held: "The wording of a complaint is binding on the State in pursuing its theory before a jury." That is, by including specific language in its complaint alleging how the offense was committed, "the State limited itself to a theory that [the defendant] committed only that version of the offense." 289 Kan. at 802.

Hambright is correct. The State presented no evidence explaining what characteristics of the object made it a dagger. The State's only witness, Cameron, never used the word "dagger" in his testimony. Rather, Cameron repeatedly referred to the object as a "knife," describing it as a "fixed blade, non-serrated edge knife," with a blade approximately 4 1/2 inches long with a single sharpened edge. Photos admitted at trial reflect the object had a fixed handle; a curved blade with a single-sided, non-serrated cutting edge; and was roughly the same dimensions Cameron described.

The problem with the State's evidence is the object Hambright possessed would undoubtedly be colloquially referred to as a knife. However, as *Harris* recognized, there are many objects which Kansans would typically refer to as knives but do not meet the

specific definition of "knife" as required by K.S.A. 2019 Supp. 21-6304(c)(1). 311 Kan. at 816. Without presenting some evidence as to what characteristics of the object make it a "dagger," the State is effectively only paying lip service to *Harris*' finding the residual clause of K.S.A. 2019 Supp. 21-6304(c)(1) is unconstitutionally vague. 311 Kan. at 826. In other words, there is nothing to support the jury finding the object was actually a dagger as opposed to merely being a "dangerous or deadly cutting instrument of like character." K.S.A. 2019 Supp. 21-6304(c)(1). This is precisely the problem *Harris* recognized—it leaves the jury to resolve a point of vagueness or ambiguity by its own subjective interpretation. See 311 Kan. at 822.

The central problem in this appeal is that "dagger" is not defined in K.S.A. 2018 Supp. 21-6304. Granted, prior to *Harris*, this would not have been an issue as the residual clause was effectively a catch-all provision for objects which may have questionably fit within the definitions of the enumerated items prohibited by the statute. See *State v. Baston*, No. 119,538, 2020 WL 6533267, at *2 (Kan. App. 2020) (unpublished opinion) (reversing conviction for possession of machete based on residual clause). But Hambright was charged prior to *Harris*; thus, we must apply the statute in effect at the time. *State v. Martin*, 270 Kan. 603, 605, 17 P.3d 344 (2001). Going forward, our Legislature could prevent this issue by amending the statutory language in K.S.A. 2022 Supp. 21-6304.

The current codification still contains the residual clause struck down in *Harris*. See K.S.A. 2022 Supp. 21-6304(d)(1). The reach of this statute would be clearer, and the intent of the Legislature more evident, if the Legislature removed this unconstitutional language from the statute and replaced it with clear definitions for the enumerated items listed as being prohibited therein. We note our Legislature has previously done so as it has statutorily defined other weapons based on their measurements, physical characteristics, and intended uses. For example, for purposes of Kansas' criminal use of weapons statute, K.S.A. 2022 Supp. 21-6301, a throwing star is defined as "any instrument, without handles, consisting of a metal plate having three or more radiating

points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing." K.S.A. 2022 Supp. 21-6301(m)(4). The 2011 codification of K.S.A. 21-6301 defined a switchblade knife as:

> "[having] a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement." K.S.A. 2011 Supp. 21-6301(a)(1).

The 2011 criminal use of weapons statute also specified that ordinary pocket knives with a blade length of four inches or less were not considered dangerous knives or deadly weapons or instruments. K.S.A. 2011 Supp. 21-6301(a)(2).

Here, due to the absence of a specific statutory definition for "dagger" in K.S.A. 2018 Supp. 21-6304, we must apply the ordinary meaning of the term as reflected by a dictionary definition. See *Midwest Crane & Rigging, LLC v. Kansas Corporation Comm'n*, 306 Kan. 845, 851, 397 P.3d 1205 (2017). But we pause to note that due to our Supreme Court's decision in *Harris*, we cannot apply two less frequently used canons of construction: *noscitur a sociis* ("[T]he meaning of a word is or may be known from its accompanying words.") and *ejusdem generis* ("[W]here enumeration of specific things is followed by a more general word or phrase, such general word or phrase is held to refer to things of the same kind, or things that fall within the classification of the specific terms."). See *State v. Brownlee*, 302 Kan. 491, 526, 354 P.3d 525 (2015) (Luckert, J., dissenting); *State v. Moler*, 269 Kan. 362, 363, 2 P.3d 773 (2000). We cannot apply these principles to define "dagger" because doing so would effectively revive the residual clause struck down by *Harris*. If we look to the known associates of the word dagger or whether the object generally falls within the classification of the more specific term, we might allow Hambright's conviction to stand because the object was a "dangerous or

deadly cutting instrument of like character" to a dagger. Under *Harris*, this we cannot do. See 311 Kan. at 826.

Turning to dictionary definitions, we see "dagger" defined in multiple ways over the years:

- "[A] weapon with a short, pointed blade, used for stabbing." Webster's New World College Dictionary 372 (5th ed. 2016);

- "A short pointed weapon with sharp edges." American Heritage Dictionary of the English Language 456 (5th ed. 2016);

- "A short pointed weapon with sharp edges." Webster's New College Dictionary 290 (3d ed. 2008);

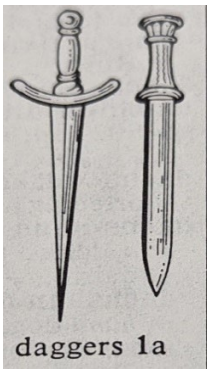
- "A short pointed weapon with sharp edges." Webster's II New College Dictionary 290 (3d ed. 2005);

- "[A] sharp pointed knife for stabbing [or] something that resembles a dagger." Merriam-Webster's Collegiate Dictionary 313 (11th ed. 2003);

- "[K]nife for stabbing." Webster's New Explorer Large Print Dictionary 158 (2000);

- "[A] short knife used for stabbing—see Anlace, Dirk, Misericord, Poniard, Stiletto; compare Bowie Knife." Webster's Third New International Dictionary

of the English Language, Unabridged 570 (1993) (includes accompanying illustration);

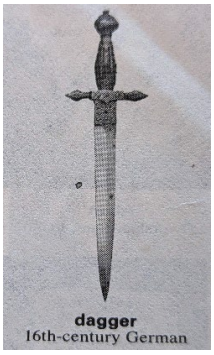


- "[A] short, swordlike weapon with a pointed blade and a handle, used for stabbing." Random House Webster's College Dictionary 342 (1991);

- "[A] short, knifelike weapon for stabbing, with a sharp-edged, pointed blade." The New Lexicon Webster's Encyclopedic Dictionary of the English Language, Deluxe Edition 241 (1990);

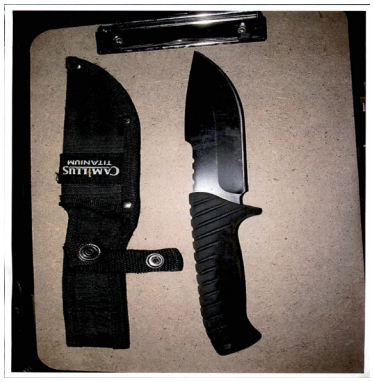
- "A short pointed weapon with sharp edges." Webster's II New Riverside University Dictionary 344-45 (1988);

- "A short pointed weapon with sharp edges." The American Heritage Dictionary, Second College Edition 363 (1982) (includes accompanying illustration);



- "A short-edged and pointed weapon, like a small sword, used for thrusting and stabbing." The Random House American Dictionary and Family Reference Library 304 (1968).

While the specifics and level of detail in these definitions varies considerably, we see some common themes in what constitutes a dagger. Many of these definitions refer to an object with sharp *edges*, meaning more than one sharp edge. Here, the object Hambright possessed had only one sharpened edge, as reflected by the following photo admitted at trial.

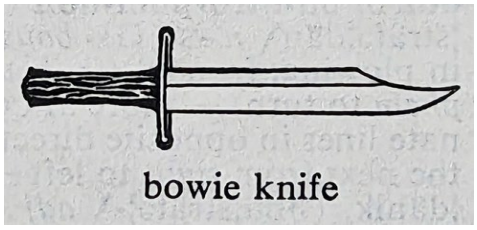


Several other definitions refer to a dagger as a weapon or knife used for stabbing. Here, the State presented no evidence the object Hambright possessed was, by its design, to be used for stabbing. The object obviously *could* be used for stabbing, but the same is true of many paring knives, letter openers, kitchen knives, and numerous other pointed objects, all of which would not be considered a dagger under K.S.A. 2018 Supp. 21-6304(c)(1). See *Harris*, 311 Kan. at 816.

Other definitions—some of which include illustrations—reflect a dagger is often sword-like in appearance. Here, the object Hambright possessed does not appear like a sword. We also note "dagger" is often synonymous with "dirk" and "stiletto." See Webster's Third New International Dictionary of the English Language at 570. In fact, "dirk" has been defined as simply "[a] dagger." American Heritage Dictionary of the

English Language at 512. Similarly, "stiletto" is defined as "A small dagger with a slender, tapering blade, [or] [s]omething shaped like such a dagger." American Heritage Dictionary of the English Language at 1715.

But there is a distinction between daggers and other knives, such as a Bowie Knife, which is defined as "a large hunting knife adapted esp[ecially] for knife-fighting and common in western frontier regions and having a guarded handle and a strong single-edge blade . . . with its back straight for most of its length and then curving concavely and sometimes in a sharpened edge to the point." Webster's Third New International Dictionary of the English Language at 262 (1993); see Webster's Third New International Dictionary of the English Language at 570 (distinguishing dagger and Bowie Knife). The description of a Bowie Knife is reflected in an accompanying illustration (Webster's Third New International Dictionary of the English Language at 262).



We observe the object Hambright possessed shares some of these characteristics insofar as it has a smaller single-edge blade and a mostly straight back, which comes to a point. While such an object could undoubtedly be used in a dangerous manner, that does not make it a dagger. The object Hambright possessed reflects a thicker back to the blade to give it more stability for cutting objects, like a hunting knife, and thus dissimilar to the basic design and definition provided by most dictionary definitions mentioned above for a dagger.

As Hambright points out, cases from other jurisdictions have involved expert testimony regarding whether a particular object was a dagger. See *State v. Threlkeld*, 314

Or. Ct. App. 433, 435-36, 496 P.3d 1147 (2021); *People v. Castillolopez*, 63 Cal. 4th 322, 324-27, 371 P.3d 216 (2016); *People v. Willson*, 272 A.D.2d 959, 959, 708 N.Y.S.2d 668 (2000). While the State need not necessarily present expert testimony, it must present *some* evidence to establish the object was, in fact, a dagger. Here, the State failed to do so. The State suggests showing the jury the object and describing its dimensions was sufficient. But this evidence does nothing beyond establishing the object was something that would commonly be referred to as a knife. All daggers may be knives, but not all knives are daggers within the meaning of K.S.A. 2018 Supp. 21-6304(c)(1).

The dissent views this discussion as an effort to substitute the jury's factual findings with our own. But that is not our intent as we lack the context or ability to reweigh evidence. Rather, when reviewing a challenge to the sufficiency of the evidence, we review the evidence in the light most favorable to the State. And in the absence of any statutory or instructional definitions, we generally presume that juries rely on the common understanding of the words used in their instructions. See *State v. Letterman*, 60 Kan. App. 2d 222, 224-25, 232, 492 P.3d 1196 (2021).

The problem here, as our previous discussion and litany of potential definitions of "dagger" demonstrate, is there does not appear to be a common definition of dagger for the jury to apply. At the very least, there are ambiguities among the universe of potential definitions of that term. See *State v. Scheuerman*, 314 Kan. 583, 587, 502 P.3d 502 (recognizing that even an "apparently clear statute may nevertheless manifest ambiguity when applied to the particular facts of a case."), *cert. denied* 143 S. Ct. 403 (2022).

It is a longstanding principle of Kansas law that any ambiguities in criminal statutes must be strictly construed in favor of the defendant. *State v. Paul*, 285 Kan. 658, 662, 175 P.3d 840 (2008). And "[a]ny reasonable doubt as to the meaning of the statute is decided in favor of the accused, subject to the rule that judicial interpretation must be reasonable and sensible to effect legislative design and intent." *State v. Coman*, 294 Kan.

84, 96, 273 P.3d 701 (2012); see *State v. Bonner*, 290 Kan. 290, 296, 227 P.3d 1 (2010) (stating strict construction "simply means that the court reads words with their ordinary meaning" and then decides any reasonable doubt in favor of the accused.).

This principle, which courts often describe as the rule of lenity, "is based on the notion that people should have fair notice of conduct that is criminal." *State v. Reese*, 42 Kan. App. 2d 388, 390, 212 P.3d 260 (2009). The jury in Hambright's case was not given any statutory definition of "dagger." And the State provided no evidence, expert or otherwise, that the object Hambright handed to the officer—which the officer repeatedly described as a "knife"—was a dagger. Faced with these circumstances, we cannot say that the State proved beyond a reasonable doubt Hambright possessed a dagger in violation of K.S.A. 2018 Supp. 21-6304(c)(1). See *State v. Toliver*, 306 Kan. 146, 150-55, 392 P.3d 119 (2017) (interpreting an ambiguous criminal statute then vacating a conviction when the State failed to prove one of the statutory elements of that offense).

To be clear, our holding is narrow. We do not conclude the object Hambright possessed could not, *with further evidence*, be sufficient to support a conviction under K.S.A. 2018 Supp. 21-6304(c)(1). Rather, our analysis turns on the fact the State failed to present sufficient evidence of what characteristics the object Hambright possessed made it a dagger. Without this evidence, there was no basis for the jury to conclude Hambright possessed a dagger as opposed to a "dangerous or deadly cutting instrument of like character." See *Harris*, 311 Kan. at 826-27. We find the evidence was insufficient; therefore, we reverse Hambright's conviction and vacate his sentence. Accordingly, the remaining issues Hambright raises are moot.

Reversed.

* * *

CLINE, J., dissenting: I respectfully dissent from the majority's decision because I believe it impermissibly limits the scope of K.S.A. 2018 Supp. 21-6304 and oversteps the bounds of our appellate authority by acting as a fact-finder. The majority construes the term "dagger" in the narrowest sense of the word and then reweighs the evidence against its restrictive definition. I believe the evidence presented provided sufficient grounds for a rational jury to find Gerald D. Hambright's blade was a dagger using its ordinary meaning. I would affirm his conviction on that basis.

To begin, Hambright does not claim his blade was not a dagger. Rather, he claims the State did not *prove* it was a dagger. Based on this question, we need only determine whether, after reviewing all the evidence in the best light for the State, a rational fact-finder could have found Hambright's blade was a dagger. *State v. Aguirre*, 313 Kan. 189, 209, 485 P.3d 576 (2021).

The jury's instructions did not define "dagger," and Hambright did not request that any parameters be provided. In fact, he successfully objected to the State's attempt to include a dictionary definition of dagger ("a weapon with a short, pointed blade, used for stabbing") in the instructions, partly because "it's not defined by statute." Instead, the jury was instructed to "use common knowledge and experience." And both the prosecutor and defense counsel told the jury in closing it is "for you to decide" whether the item was a dagger.

Since K.S.A. 2018 Supp. 21-6304 does not define "dagger," this term must be understood in its ordinary, everyday sense. *State v. Haskell*, 50 Kan. App. 2d 1146, 1151, 337 P.3d 705 (2014). And that is how the question was posed to the jury. But rather than measure the legal sufficiency of the evidence against the term's commonly understood meaning, the majority uses an overly narrow definition which was not presented to the

jury and in so doing violates the rules of statutory construction we have to apply when construing K.S.A. 2018 Supp. 21-6304.

Our role when interpreting statutes is limited to determining legislative intent. That is, identifying the purpose behind the statute and the meaning the Legislature ascribed to the language it chose. Our interpretation must be reasonable and sensible to effect that intent. *State v. Quested*, 302 Kan. 262, 284, 352 P.3d 553 (2015). To this end, we examine the statutory language enacted and give words their ordinary meaning "'unless the context indicates that they bear a technical sense.'" *Haskell*, 50 Kan. App. 2d at 1151 (citing Scalia & Garner, Reading Law: The Interpretation of Legal Texts 69 [2012]).

Applying those principles, we must assume that if the Legislature intended the term dagger to have a peculiar or technical meaning, it would have precisely defined it. Since it did not, we must assume it intended to use the term consistent with the common understanding. See *Haskell*, 50 Kan. App. 2d at 1151. While the majority agrees with this idea in theory, it does not apply it. Instead, it provides various definitions of dagger that were not presented to the jury and then synthesizes them in an overly narrow and impractical way.

Looking no further than the majority's curated definitions, it is clear the common understanding of dagger is broader than the majority's overly technical view. In reviewing these definitions, no bright line emerges defining daggers based on whether they are dual-edged or "sword-like." Only two of the twelve definitions mention "sword" and only five mention "edges" (which the majority interprets to mean dual-edged). In truth, the common denominators are that the item must be short, bladed, pointed, and a weapon. Further, while the majority faults the State for failing to present evidence that Hambright's blade "was, by its design, to be used for stabbing," none of its definitions are

so restrictive. That is, they only mention a dagger is *used* for stabbing, not specifically designed for it.

Finally, even under the majority's restrictive definition, Hambright's blade could qualify as a dagger. While not necessarily "sword-like," it might be dual-edged because the blade has both a plain edge and a serrated spine. Since the blade was admitted into evidence, the jury could have examined it and determined that it met all the elements of a dagger as identified by the majority. Again, it is not our job to determine whether we would come to that conclusion, but whether a reasonable jury might do so.

We must be guided by common sense and practicalities when interpreting statutes. See *State v. Wilson*, 267 Kan. 550, 557, 987 P.2d 1060 (1999); *Anderson v. Overland Park Credit Union*, 231 Kan. 97, 106, 643 P.2d 120 (1982). There is limited usefulness in prohibiting convicted felons from carrying daggers if the restriction only includes archaic weapons mainly found in Renaissance Festivals and Civil War Reenactments.

It seems more reasonable and practical to understand the term dagger to mean "a weapon with a short, pointed blade, used for stabbing," as defined by Webster's New World College Dictionary 372 (5th ed. 2016). This definition more accurately summarizes the theme of the majority's definitions and satisfies our rules of statutory construction. I believe the evidence presented below—mainly, the blade itself—was sufficient to support the jury's finding that the blade was a dagger according to this ordinary meaning.

As for the rule of lenity, I believe the majority's application is premature. The rule of lenity only applies when reasonable doubt exists about a statute's meaning and application. *State v. Williams*, 299 Kan. 870, 875, 326 P.3d 1070 (2014). And even when the rule applies, it is still subject to the rule that judicial interpretation must be reasonable and sensible to effect legislative design and intent. *Quested*, 302 Kan. at 284.

The United States Supreme Court has instructed that the rule of lenity applies to resolve ambiguity in favor of the defendant only at the end of the process of construing what Congress has expressed when the ordinary canons of statutory construction have revealed no satisfactory construction. *Lockhart v. United States*, 577 U.S. 347, 361, 136 S. Ct. 958, 194 L. Ed. 2d 48 (2016). In other words, the rule only applies if after considering text, structure, history, and purpose, there remains a grievous ambiguity or uncertainty in the statute, such that the court must simply guess as to the intended meaning. *Abramski v. United States*, 573 U.S. 169, 188 n.10, 134 S. Ct. 2259, 189 L. Ed. 2d 262 (2014). I do not believe we are faced with such a situation here.

Hambright and the majority try to undermine the sufficiency of the trial evidence by speculating about other evidence that could have been presented, such as expert testimony about how Hambright's blade satisfied the common understanding of a dagger. But we do not measure the sufficiency of the evidence against an ideal scenario. Rather than imagine evidence that *might have been* presented, we must consider the evidence that *was* presented and evaluate its sufficiency through a lens which gives the jury's verdict the benefit of all reasonable inferences. See *State v. Ashcraft*, 349 P.3d 664, 670 (Utah 2015); *Aguirre*, 313 Kan. at 209.

It appears the majority viewed the evidence in the light most favorable to the defendant rather than the State. The absence of expert testimony here does not render the evidence presented at trial so insufficient that no reasonable fact-finder could have concluded it was a dagger. *State v. Torres*, 308 Kan. 476, 488, 421 P.3d 733 (2018) (Noting it is only in rare cases in which no reasonable fact-finder could find that a defendant committed the crime beyond a reasonable doubt that a guilty verdict will be reversed.).

Both Hambright and the majority also fault the State's measure of proof because the arresting officer—the only witness who testified at trial—did not call the item a

dagger. Instead, he called it a knife and described its characteristics without explaining which traits make it a dagger. But testimony from the officer about what features make an item a dagger—including Hambright's item—would arguably constitute expert opinion. See *State v. Threlkeld*, 314 Or. Ct. App. 433, 435-36, 439, 496 P.3d 1147 (2021) (reversing conviction because officer's testimony about the design and purpose of the knife recovered from the defendant was expert opinion which the officer was not qualified to provide); *People v. Castillolopez*, 63 Cal. 4th 322, 324-27, 371 P.3d 216 (2016) (examining sufficiency of expert testimony about the technical aspects of the defendant's Swiss Army knife in determining whether it met the statutory definition of a prohibited knife). While such evidence may bolster a particular case, it is not required to sustain a conviction. And simply because courts in other jurisdictions have admitted expert testimony of witnesses with knife or dagger expertise does not mean such testimony is necessary or the only way the State can satisfy its burden of proof. Indeed, none of the cases cited by Hambright and the majority stand for this proposition.

The majority also reaches beyond the issue Hambright brought before us. Hambright does not claim the term dagger is vague or ambiguous nor does he challenge either the statute's or jury instructions' failure to define dagger. Yet the majority justifies its imposition of a restrictive definition out of concern that the jury could have convicted Hambright based on the residual clause in K.S.A. 2018 Supp. 21-6304(c)(1)'s definition of knife, which our Supreme Court found unconstitutionally vague in *State v. Harris*, 311 Kan. 816, 467 P.3d 504 (2020). That is, the majority is worried the jury could have found the blade was a "dangerous or deadly cutting instrument of like character" rather than finding it was a dagger. K.S.A. 2018 Supp. 21-6304(c)(1).

The residual phrase was not included in the jury instructions, nor was it presented or argued to the jury. The jury was simply told a "'[k]nife' means dagger, dirk, switch blade, stiletto or straight razor." And the parties further honed in by each telling the jury the question before them was whether Hambright's blade was a dagger. Since no one

mentioned the residual clause or interjected the other types of knives into the discussion, I believe the majority's concern is unfounded.

The majority, though well-intentioned, overstepped the bounds of our appellate authority by reweighing the evidence, finding it insufficient when measured against its adopted definition. While the majority believes the item more resembles a bowie knife than a dagger, it is not our job to make this determination. Our job is to determine whether the jury had sufficient evidence to make this determination. I believe it did.

On this record, within the confines of the instructions given without objection, I would find the evidence is sufficient to uphold the jury's verdict and affirm Hambright's conviction.