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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1534**

State of Minnesota,
Respondent,

vs.

Andrew Patrick Olson,
Appellant.

**Filed July 20, 2020
Affirmed
Rodenberg, Judge**

Sherburne County District Court
File No. 71-CR-17-1449

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

Kathleen A. Heaney, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Melissa Sheridan, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and
Rodenberg, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

In this direct appeal from his theft conviction, appellant Andrew Olson argues that the circumstantial evidence tending to prove that he committed the theft is insufficient to eliminate all rational inferences inconsistent with his guilt. We disagree and affirm.

FACTS

On April 20, 2017, a 14-foot V-nose RC trailer belonging to D.Z. was stolen from the lot behind his business in Elk River. Surveillance footage shows that the trailer was stolen by one person driving a light-colored, four-door pickup truck with black door handles, black wheel arches, black rims, running boards, five cab lights, and a silver mark behind the driver's-side front wheel well. The footage shows only one person getting out of the pickup truck, hitching the trailer to the truck, and driving away. Only D.Z. and his son had permission to use the trailer.

On April 21, 2017, D.Z. discovered that his trailer was missing and contacted police. Two days later, D.Z. found his trailer listed for sale on Craigslist in Eau Claire, Minneapolis, and Rochester. The listings were posted on April 22 and 23, 2017. Police determined that the photographs posted on Craigslist were taken in a Shopko parking lot in Rochester. An officer contacted the seller, who was identified as "Drew Olson." After initially responding to the officer, the seller later ceased contact and deleted the listings.

At trial, T.B. testified that he was shopping for a trailer in April 2017, and found a 14-foot V-nose RC trailer listed for sale on Craigslist. T.B. agreed to meet the seller of the trailer in a Walmart parking lot in Rochester. When T.B. arrived at the parking lot, the seller, later identified as appellant, was already there. Appellant was alone, and had the trailer hitched to a silver Dodge Ram 2500 diesel pickup truck. Similar to the vehicle depicted in the surveillance footage when the trailer was stolen, the Dodge Ram pickup truck had five cab lights, black door handles, black wheel arches, black rims, and running

boards. T.B. bought the trailer for \$2,900 on April 25 or 26. The trailer was later identified as the trailer stolen from D.Z.

On April 30, 2017, Rosemont police stopped a silver Dodge Ram 2500 diesel pickup truck for failing to display license plates. The truck had five cab lights, black door handles, black wheel arches, black rims, running boards, and a silver mark behind the driver's-side front wheel well. The truck, which was driven by appellant, was pulling a stolen trailer. Appellant provided police with false information about his identity. Police arrested him.

A search of appellant's truck revealed duplicate vehicle identification number (VIN) stickers for the stolen trailer that appellant had sold to T.B. Police also found an advertisement for D.Z.'s trailer on appellant's cell phone. In September 2017, D.Z.'s trailer was recovered from T.B., who had been an unwitting buyer of it.

The state charged appellant with theft of movable property in violation of Minn. Stat. § 609.52, subd. 2(a)(1) (2016), based on the state's allegation that appellant stole D.Z.'s trailer from the parking lot in Elk River. Appellant pleaded not guilty and the case was tried to the court. At trial, the district court admitted evidence that appellant had previously been convicted of possessing stolen trailers in 2013 and 2017, because the evidence tended to prove identity and common scheme or plan.

The district court found appellant guilty and sentenced him to an executed prison term of 21 months.

This appeal followed.

DECISION

Appellant argues that his “conviction must be reversed because the state did not prove beyond a reasonable doubt that he stole a trailer from [D.Z.]” because, he argues, the state’s circumstantial evidence that he is the person who stole D.Z.’s trailer is insufficient.

When evaluating a claim concerning the sufficiency of circumstantial evidence, “we carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the factfinder to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Waiters*, 929 N.W.2d 895, 900 (Minn. 2019) (quotation omitted). We view the evidence in the light most favorable to the verdict and assume that the fact-finder believed the state’s witnesses and disbelieved any contrary evidence. *State v. Moore*, 481 N.W.2d 355, 360 (Minn. 1992). “A conviction based on circumstantial evidence receives heightened scrutiny on appellate review.” *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013) (quotation omitted).

“A conviction supported by circumstantial evidence requires us to apply a two-step [analysis]” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012). “First, we must identify the circumstances proved, giving deference to the [fact-finder]’s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State.” *Id.* (quotation omitted). Second, we must “independently examine the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with a hypothesis other than guilt.” *Id.* (quotation omitted). “Circumstantial evidence must form a complete chain that, in view

of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted).

The charged offense required the state to prove beyond a reasonable doubt that appellant intentionally and without claim of right took, used, transferred, concealed, or retained possession of D.Z.’s property without D.Z.’s consent and with the intent to permanently deprive D.Z. of the property, and that his act occurred in Sherburne County. Minn. Stat. § 609.52, subd. 2(a)(1). Appellant does not argue that D.Z.’s trailer was not stolen, but maintains that the evidence is insufficient to prove that he is the person who stole the trailer. The evidence of identity is circumstantial, because the surveillance footage is not sufficiently clear to identify the person who took the trailer.

Applying the circumstantial-evidence review standard to the evidence of appellant’s having been the thief, the circumstances proved are that, on April 20, 2017, a light colored, four-door pickup truck with black door handles, black wheel arches, black rims, running boards, five cab lights, and a silver mark behind the driver’s-side front wheel well was used to steal D.Z.’s trailer. There was one person in the pickup truck when the trailer was stolen. Two or three days after the theft, the trailer was listed for sale on Craigslist in Eau Claire, Minneapolis, and Rochester. The same pictures of the trailer, taken at a Shopko in Rochester, were used in all three listings. The Craigslist seller identified himself as “Drew Olson.” On April 25 or 26, 2017, appellant met with T.B.—who knew nothing of the theft—to sell the trailer to T.B. Appellant was alone when he met with T.B. and was driving a silver Dodge Ram 2500 diesel four-door pickup truck with black door handles,

black wheel arches, black rims, running boards, five cab lights, and a silver design reading “Ram 2500” behind the driver’s-side front wheel well. On April 30, 2017, a Rosemont police officer stopped appellant, who was driving the silver Dodge Ram 2500 diesel four-door pickup truck with black door handles, black wheel arches, black rims, running boards, five cab lights, and “Ram 2500” written in silver lettering behind the driver’s-side front wheel well. When officers searched appellant’s pickup truck, they discovered duplicate VIN stickers for D.Z.’s stolen trailer. On January 30, 2017, appellant received a stolen trailer in Hennepin County, knowing that it was stolen. On March 13, 2013, appellant was stopped in Pine County while towing a stolen trailer that had the serial number removed.

Having identified the facts consistent with guilt, we next “independently examine the reasonableness of all inferences that might be drawn from the circumstances proved.” *Ortega*, 813 N.W.2d at 100 (quotation omitted). The inferences to be drawn from the circumstances proved are consistent with appellant’s guilt, and appellant makes no contrary argument.

Appellant argues, however, that the circumstances proved are consistent with an alternative theory of innocence: that appellant possessed the stolen trailer, but was not the person who stole it.

The state argues that the truck used to take D.Z.’s trailer is identical to the truck appellant used to meet T.B. to sell him the stolen trailer and is identical to the truck he was driving when Rosemont police stopped him and discovered documents concerning the stolen trailer in that truck. And he was twice convicted in the past of being in possession of stolen trailers. The district court determined that the only reasonable inference from the

evidence is that the same pickup truck was involved in each of these incidents, and that appellant was the person who stole the trailer.

The only rational inference from the circumstances proved is indeed that appellant was the individual who stole the trailer on April 20, 2017. In the days following the theft, appellant drove a pickup truck identical to the one used in the trailer theft, both when he sold the trailer to T.B. and when he was stopped by Rosemont police. The record on appeal includes no evidence that anyone other than appellant drove that pickup truck. Police also found an advertisement for the trailer on a cell phone seized from appellant, and the truck appellant was driving when he was arrested contained documents pertaining to the stolen trailer. This evidence, although circumstantial, leads unerringly to only one conclusion—that appellant is the person who stole the trailer.

Appellant's proposed alternative conclusion, that someone else stole the trailer, is neither reasonable nor rational on these facts. The only reasonable conclusion from the circumstances proved is that appellant stole D.Z.'s trailer on April 20, 2017. We therefore affirm his conviction.

Affirmed.