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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1627**

State of Minnesota,
Respondent,

vs.

Ramon Rosevelt Blakey,
Appellant.

**Filed August 17, 2020
Affirmed
Slieter, Judge**

Carver County District Court
File No. 10-CR-18-1091

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

Mark Metz, Carver County Attorney, Peter Ivy, Assistant County Attorney, Chaska,
Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Ross, Judge; and Slieter, Judge.

UNPUBLISHED OPINION

SLIETER, Judge

In this direct appeal from final judgment, appellant Ramon Rosevelt Blakey argues that his burglary conviction must be reversed because respondent State of Minnesota failed to prove that he was one of the two individuals who committed the burglary. Because the

circumstantial evidence was sufficient for the jury to find that Blakey was one of the two individuals who committed the burglary, we affirm.

FACTS

The state charged Blakey with aiding and abetting theft, in violation of Minn. Stat. § 609.52, subd. 2(a)(1) (2018), and second-degree burglary while possessing burglary tools, in violation of Minn. Stat. § 609.582, subd. 2(a)(4) (2018), following a break-in at a T-Mobile store. The case was presented to a jury which found Blakey guilty of each charged count. The district court entered a conviction on the burglary count only and sentenced Blakey to 39 months in prison. This appeal follows.

DECISION

Blakey argues on appeal that the circumstantial evidence was insufficient for the jury to find him guilty because the circumstances proved allow for a reasonable alternative hypothesis that he was not one of the individuals who broke into the T-Mobile store. Though we agree that the jury found Blakey guilty based upon circumstantial evidence, we disagree with Blakey's argument as to the presence of a reasonable alternative hypothesis other than his guilt.

“A conviction based on circumstantial evidence warrants particular scrutiny.” *State v. Bolstad*, 686 N.W.2d 531, 539 (Minn. 2004). Appellate courts must apply a two-step analysis when reviewing the sufficiency of circumstantial evidence. *See State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, the reviewing court must identify the circumstances proved and “construe conflicting evidence in the light most favorable to the verdict.” *See id.* at 599 (quotation omitted). In doing so, the reviewing court must defer

“to the jury’s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State.” *See State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010) (quotation omitted). Second, the reviewing court must “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt, not simply whether the inferences that point to guilt are reasonable.” *See State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (quotation omitted). The state’s evidence does not need to exclude all inferences other than guilt, but it must “exclude all reasonable inferences other than guilt.” *State v. Tscheu*, 758 N.W.2d 849, 857 (Minn. 2008). The circumstances proved 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).

Circumstances Proved

The following circumstances were proved at trial, and are consistent with the jury’s finding of Blakey’s guilt:

- Two individuals broke into the T-Mobile store in Waconia at night on October 21, 2018. The individuals entered the store using tools to cut a hole through the wall of a neighboring retail unit.
- The two individuals removed approximately 30 cell phones and, using tools, a safe containing cash from the storage room.
- The two individuals fled the store with the items in a green Ford Windstar van. A tracking device on one of the stolen phones sent a signal to law enforcement indicating the phone’s GPS location, and law enforcement began a pursuit of the vehicle. Law enforcement officers ended the pursuit out of safety concerns as the vehicle got close to Minneapolis. The officers located the van parked in a Minneapolis parking lot and observed a safe and

cell phones in plain view through the van's window. The safe was partially covered by a green, white, and orange athletic jacket.

- Officers searched the van and found receipts from Home Depot and Walgreen's dated October 20, 2018, and October 19, 2018, respectively. The Home Depot receipt showed that several tools were purchased, including a power hacksaw, a red six-inch steel blade, bolt cutters, a 20-gallon tote, gloves, and a 5/16-inch drill bit.
- Surveillance video from the Home Depot store at the time and date listed on the receipt shows two men, one of whom resembles Blakey who is wearing athletic pants matching the jacket found in the van after the burglary, and wearing white shoes similar to a pair of Air Jordan shoes found in the van after the burglary. The man is seen carrying a bolt cutter in the tools department.
- Surveillance video from the Walgreen's store at the time and date listed on the receipt shows a man who resembles Blakey at the checkout counter wearing an athletic jacket matching the jacket found in the van after the burglary.
- Red paint was found on the safe and wall at places that were cut with a power tool.
- Officers found a cell phone under the front seat of the van connected to Blakey's email address and with Blakey's fingerprints on it, a cup with a straw that contained Blakey's DNA, and a pair of white Air Jordan shoes that matched footprints found in the T-Mobile store and on the safe found in the van.
- Officers found a glove in the van that also matched the description on the Home Depot receipt.
- Blakey's phone was used to call the Iron Tap bar in Waconia within two hours of the burglary. This bar is visible from the T-Mobile store but is not located in the same building.
- A black-and-white surveillance video from a bar located in the same building as the T-Mobile store shows a man resembling Blakey briefly enter the bar a few days before the burglary at the T-Mobile store and look around. The man appears to be wearing shoes and a jacket similar to those found in the van after the burglary.

No Reasonable Alternative Hypothesis

Blakey acknowledges that the circumstances proved establish that two individuals forced entry into the T-Mobile store and that law enforcement found his personal property and DNA inside the van. He asserts, however, that the circumstances proved allow for a reasonable alternative hypothesis that he was not involved in the break-in because the evidence only places him in the van at some point and does not show that he was in the T-Mobile store.

For the jury to find Blakey guilty of second-degree burglary while possessing burglary tools, the state needed to prove that Blakey “enter[ed] a building without consent and with intent to commit a crime, or enter[ed] a building without consent and commit[ted] a crime while in the building, either directly or as an accomplice” and “when entering or while in the building, the burglar possesse[d] a tool to gain access to money or property.” Minn. Stat. § 609.582, subd. 2(a)(4).¹

We reject Blakey’s argument of a reasonable hypothesis other than his guilt. Appellate courts “will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture.” *State v. German*, 929 N.W.2d 466, 472 (Minn. App. 2019). We conclude that Blakey’s alternative hypothesis that another person, not him, entered the

¹ Blakey was also found guilty of aiding and abetting theft, though the district court did not enter judgment of conviction for this crime. Because we recognize that, consistent with *State v. Ashland*, 287 N.W.2d 649, 650 (Minn. 1979), we typically need address the sufficiency of evidence only as to the offense for which a conviction and sentence is imposed, we choose to not address sufficiency of evidence for this offense.

T-Mobile store is unreasonable. The evidence indicating Blakey's preparation for the burglary, the match between the purchases Blakey made before the burglary and the items found in the vehicle after the burglary, and the physical evidence tying Blakey to the burglary and the vehicle, indicate that Blakey's alternative hypothesis is unreasonable. The circumstances proved "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." *Al-Naseer*, 788 N.W.2d at 473.

Affirmed.