

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1965**

State of Minnesota,
Respondent,

vs.

Halana Debra Louise Harris,
Appellant.

**Filed January 19, 2021
Affirmed in part, reversed in part, and remanded
Bjorkman, Judge**

Dakota County District Court
File No. 19HA-CR-18-1661

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

James C. Backstrom, Dakota County Attorney, Heather Pipenhagen, Assistant County Attorney, Hastings, 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 Larkin, Presiding Judge; Johnson, Judge; and Bjorkman, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges her convictions of unlawful possession of a firearm and fifth-degree possession of a controlled substance, arguing that (1) insufficient evidence supports

the convictions, and (2) the warrant of commitment must be corrected to reflect the duration of probation that the district court ordered at sentencing. We affirm the convictions but reverse the sentence and remand for correction of the warrant of commitment.

FACTS

In early 2018, D.K. regularly used various illegal drugs and purchased cocaine from Richard Quarles and his girlfriend, appellant Halana Debra Louise Harris. In late April, D.K. was unable to pay them and agreed to let them move into his three-bedroom Eagan apartment as a means of settling his debt. Quarles and Harris shared a bedroom with an attached bathroom. They made it clear to D.K. that he was not welcome in their space. About a week after moving in, they brought Harris's "trained to attack" pit bulls to stay in their room. In further payment of his debt to Quarles and Harris, D.K. gave them a Saiga semiautomatic rifle; he handed it to Quarles, who handed it to Harris, and they kept it in their room. D.K. asked them to leave several times, but they refused and threatened him with violence.

On June 26, D.K. reported to the police that he was being "held hostage" in his apartment by "a gang member and his girlfriend." Police thereafter coordinated with D.K. to come to the apartment while Quarles and Harris were away and conducted a dog sniff at their bedroom door. The dog alerted to the presence of a controlled substance.

Around 4:00 a.m. on the morning of June 29, Quarles and Harris brought the Saiga rifle to D.K. and demanded that he make it fully automatic. When D.K. responded that he lacked the necessary tools, Quarles and Harris left and returned 20 minutes later with a set of tools. D.K. did not know how to convert the rifle but manipulated it for a time to look

like he was complying, then left it on the living room couch and went to work. He called the police and reported that Quarles and Harris wanted him to convert the rifle, stating, “I’m praying that you guys get them out of there.”

Later that morning, police executed a search warrant at the apartment. They first arrested Quarles and Harris, who acknowledged that they lived there. During the search, the officers discovered the Saiga rifle and tools on the couch, and a case and ammunition for the rifle in Quarles and Harris’s bedroom. Also in the bedroom, they discovered a canister of powdered milk, which is commonly used for cutting cocaine, and a pink wallet containing a document with Harris’s name on it and several small baggies of the sort used to package controlled substances for sale. In the attached bathroom, they found a coffee filter containing a white powdery substance, sitting openly on the counter near a document with Harris’s name on it. Testing revealed the substance to be approximately 9.4 grams of cocaine, substantially more than a personal-use amount. The officers also discovered digital scales in the kitchen.

Harris was charged with unlawful possession of a firearm, third-degree sale of a controlled substance, and fifth-degree possession of a controlled substance. After receiving use immunity, D.K. testified on behalf of the state. The jury found Harris guilty of the firearm and controlled-substance possession charges but acquitted her of selling a controlled substance. Harris moved for a downward dispositional departure. The district court granted the motion, imposed a 60-month stayed sentence, and placed Harris on probation. Harris appeals.

DECISION

I. Sufficient evidence supports Harris’s convictions.

When reviewing a claim of insufficient evidence, we are “limited to ascertaining whether, based on the evidence presented at trial, a jury could have reasonably concluded that the accused is guilty of the offense.” *State v. Foreman*, 680 N.W.2d 536, 538 (Minn. 2004) (quotation omitted). We view the evidence in the light most favorable to the jury’s verdict, assuming that it “disbelieved any contrary evidence.” *State v. Galvan*, 912 N.W.2d 663, 668 (Minn. 2018) (quotation omitted). If a conviction is based on circumstantial evidence, we conduct a two-step analysis; we first determine the proved circumstances by assuming the jury believed the state’s evidence, and then we independently assess what inferences those circumstances reasonably support. *State v. German*, 929 N.W.2d 466, 472 (Minn. App. 2019). “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.” *Id.* (quotation omitted).

Unlawful Possession of a Firearm

Because Harris stipulated that she was not eligible to possess a firearm after being convicted of a crime of violence, the state was required to prove only that she possessed a firearm or ammunition. Minn. Stat. § 624.713, subd. 1(2) (2016). Possession must be knowing, but it may be joint or individual, actual or constructive. *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). A person constructively possesses an item if it is in a place under her exclusive control to which others normally do not have access, or, if others have

access, other evidence indicates a strong probability that the defendant was “consciously or knowingly exercising dominion and control over it.” *Id.*

Harris first argues that the evidence is insufficient because the state did not prove that she knew she could not possess a firearm. This argument lacks merit. When a person is convicted of a crime of violence, she is entitled to notice of the resulting firearm prohibition and the penalty for violating it. Minn. Stat. § 624.713, subd. 3(a) (2016). But “failure . . . to provide this information . . . does not affect the applicability of the . . . prohibition or the felony penalty to that defendant.” *Id.*; see *State v. Andersen*, 946 N.W.2d 627, 633 (Minn. App. 2020) (recognizing that proof of mens rea is not required when “the statute setting forth the offense clearly [so] provides” as to any element). The statutory framework is consistent with the principle that “ignorance of the law is not a defense” because “it would have been possible, had [the defendant] made the effort to do so, to learn of the existence of the prohibition.” *State v. Grillo*, 661 N.W.2d 641, 645 (Minn. App. 2003), *review denied* (Minn. Aug. 5, 2003). In short, the state was not required to prove that Harris knew she was ineligible to possess a firearm so the absence of such evidence does not undermine the conviction.

Harris next asserts that the evidence is insufficient to prove that she constructively possessed the Saiga rifle. She does not dispute that D.K.’s testimony establishes she and Quarles shared constructive possession of the rifle—D.K. handed it to them, they kept it in their room, they excluded him from that room, and they brought it out on June 29 only to demand that he modify it. See *Harris*, 895 N.W.2d at 601 (defining constructive possession). She also acknowledges that a conviction “can rest on the uncorroborated

testimony of a single credible witness.” *Foreman*, 680 N.W.2d at 539 (quotation omitted). But Harris contends D.K.’s testimony cannot prove possession because his act of giving her and Quarles the rifle made him an accomplice and the state failed to corroborate his testimony. This argument is unavailing in both respects.

First, D.K. was not an accomplice. A witness is an accomplice if he “could have been indicted and convicted for the crime with which the accused is charged.” *State v. Davenport*, 947 N.W.2d 251, 261 (Minn. 2020) (quotation omitted). But if the defendant “presents evidence and argues at trial that a witness is an alternative perpetrator, that witness is not an accomplice as a matter of law.” *State v. Larson*, 787 N.W.2d 592, 602 (Minn. 2010). That is the case here.

Although D.K. could not be an alternative perpetrator per se because he could lawfully possess the rifle, Harris portrayed D.K. as an alternative possessor of the rifle. On cross-examination, she repeatedly asked D.K. whether the rifle was his or characterized it as his. Other aspects of her defense likewise emphasized D.K.’s connection to the rifle. Consistent with that approach, Harris did not request and the district court did not provide a jury instruction regarding corroboration of accomplice testimony.¹ And she argued to the jury that D.K. “controlled the scene” because it was his apartment, “this is his gun,” and “[w]e all know that this is [D.K.’s] weapon.” Because D.K. was not an accomplice,

¹ Nor does she contend on appeal that it was plain error not to give one. *See Davenport*, 947 N.W.2d at 260 (stating that if a witness may be an accomplice, a district court “must instruct the jury that it cannot convict a defendant based on the uncorroborated testimony of an accomplice”).

the jury was entitled to believe his testimony without corroboration, and we assume that it did. *See Galvan*, 912 N.W.2d at 668.

Second, even if D.K. were an accomplice, the state presented ample corroborating evidence. To corroborate an accomplice's testimony, the state must present "such other evidence as tends to convict the defendant of the commission of the offense." Minn. Stat. § 634.04 (2018). Corroborating evidence is sufficient if "it is weighty enough to restore confidence in the truth of the accomplice's testimony." *State v. Smith*, 932 N.W.2d 257, 264 (Minn. 2019). Such evidence need not address each element of the charged offense. *State v. Her*, 668 N.W.2d 924, 927 (Minn. App. 2003), *review denied* (Minn. Dec. 16, 2003). It need only affirm the truth of the accomplice's account and "point to" the defendant's guilt. *Smith*, 932 N.W.2d at 264 (quotation omitted). When assessing the sufficiency of corroborating evidence, we view the evidence in the light most favorable to the guilty verdict. *Id.*

The testimony of the officer who supervised the dog sniff and the search affirmed the truth of D.K.'s testimony and pointed to Harris's guilt. D.K. testified that he gave the gun to Harris and Quarles, who thereafter kept it in their bedroom; the supervising officer indicated that police discovered a case and ammunition for the rifle in their bedroom. D.K. testified that he could not enter their bedroom, and therefore had no access to the rifle, because Harris's pit bulls would "tear [him] apart"; the supervising officer discovered "very aggressive" pit bulls in the bedroom during the search. And D.K. testified that Harris and Quarles demanded that he modify the rifle; the police found the partially disassembled rifle and various tools on the couch as D.K. described. In sum, D.K.'s testimony and that

of the officer who supervised the searches, viewed in the light most favorable to the verdict, provide a sufficient evidentiary basis for the jury's finding that Harris possessed the rifle.

Possession of a Controlled Substance

To convict Harris of fifth-degree possession of a controlled substance, the state was required to prove that she possessed one or more mixtures containing cocaine. Minn. Stat. §§ 152.02, subd. 3(b)(4), .025, subd. 2(1) (2016). As with unlawful firearm possession, the possession of the controlled substance must be knowing and may be actual or constructive. *State v. Denison*, 607 N.W.2d 796, 799 (Minn. App. 2000), *review denied* (Minn. June 13, 2000).

Harris again contends the evidence was insufficient because D.K. was an accomplice and the state failed to corroborate his testimony that she and Quarles kept cocaine in their bedroom. This argument is similarly unavailing. Even if we accept that D.K. was an accomplice, the state presented sufficient corroborating evidence. D.K. testified that Harris and Quarles kept a large quantity of cocaine in their bedroom or bathroom; police found 9.4 grams of cocaine in their bathroom, in plain view on the counter and near a document with Harris's name on it. D.K. testified that he did not have access to that space, largely because of the aggressive dogs; police confirmed the presence of aggressive dogs. D.K. testified that he permitted the police to conduct a dog sniff in the apartment and saw the dog alert at the door of Harris and Quarles's bedroom; the police indicated the same. And D.K. denied having any cocaine in the apartment himself, explaining that he always smoked "everything [he] possess[ed]"; the police did not discover cocaine anywhere other than the bathroom Harris and Quarles shared.

Harris argues that even with the corroborating evidence, the case for possession is circumstantial and the evidence supports a rational hypothesis that she is innocent. We disagree. Viewing the evidence in the light most favorable to the verdict indicates that the state proved the following circumstances: Harris and Quarles inhabited a bedroom and adjoining bathroom in D.K.'s apartment for several months, threatening to harm him when he asked them to leave; they jointly and exclusively controlled that space; there was a controlled substance in their bedroom on June 28, as indicated by the dog sniff; and on June 29, more than 9 grams of cocaine lay openly on their bathroom counter near a document with Harris's name on it. Because the only reasonable hypothesis that these circumstances collectively support is that Harris constructively possessed the cocaine, sufficient evidence supports her conviction.

II. The warrant of commitment must be corrected.

When pronouncing a sentence, a district court must state its precise terms, including the length of a stay and any probation conditions. Minn. R. Crim. P. 27.03, subd. 4(A), (E). If a warrant of commitment conflicts with an orally pronounced sentence, the oral sentence controls. *State v. Staloch*, 643 N.W.2d 329, 331 (Minn. App. 2002). The court may correct clerical errors in the warrant of commitment at any time. Minn. R. Crim. P. 27.03, subd. 10.

At Harris's sentencing, the district court placed her on probation for "zero to five years." But the warrant of commitment indicates a probation term of "5 years." The state concedes, and we agree, that the warrant of commitment is erroneous. Accordingly, we

reverse and remand for the district court to correct the warrant of commitment to reflect the indeterminate probation term pronounced at sentencing.

Affirmed in part, reversed in part, and remanded.