

*This opinion is nonprecedential except as provided by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
A20-0533**

State of Minnesota,
Respondent,

vs.

Mayson Kellon Lueck,
Appellant.

**Filed April 19, 2021
Reversed
Bryan, Judge**

Mille Lacs County District Court
File No. 48-CR-19-1766

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

Joe Walsh, Mille Lacs County Attorney, Pakou Moua, Assistant County Attorney, Milaca, Minnesota (for respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this direct appeal from final judgment of conviction for fourth-degree criminal damage to property, appellant argues that this court must reverse his conviction because respondent failed to prove beyond a reasonable doubt that he had the specific intent to

damage property. Because the circumstances proved provide for a reasonable inference other than guilt, we reverse appellant's conviction.

FACTS

On August 19, 2019, respondent State of Minnesota charged appellant Mayson Kellon Lueck with fourth-degree criminal damage to property in violation of Minnesota Statutes section 609.595, subdivision 3 (2016). The complaint alleged that Lueck intentionally broke the door window of his jail cell. The case proceeded to trial and the state called two witnesses and introduced two exhibits. Lueck did not testify. The evidence presented established the following facts.

On February 18, 2017, a corrections officer was working at the medium-maximum security male housing unit in the Mille Lacs County jail. One part of that housing unit, referred to as "M-Block," contains two single-person cells and is secured remotely such that only correctional officers have access. One inmate was locked in cell M-1 and Lueck was alone in cell M-2, which has two clear glass windows on the cell door. After serving the inmates dinner, the officer returned to his desk and heard "some banging, maybe kicking" coming from M-Block. The officer testified that these are frequent noises that he is used to hearing and that inmates sometimes use these sounds to communicate with each other. He testified that in this case the noise was "very brief." The officer went to investigate. Upon returning to M-Block, the officer "could see there was something off about" the M-2 cell-door window. The officer radioed for another officer to come to M-Block. This officer also testified at trial. One of the two windows on the cell door for cell M-2 cell was broken, and there was glass on the inside and outside of the cell. Lueck was

still inside cell M-2 and standing “roughly in the middle of the cell.” One of the officers opened the cell door and ordered Lueck to sit on the bed. Lueck complied, and the officers noticed the rectangular dinner tray on the ground with a towel wrapped around one of the short ends. Lueck was not injured, did not have shards of glass in his skin, and was not bleeding. While the officers cleaned up, Lueck appeared upset but sat quietly on the bed, was cooperative, and did not create any issues.

At some point, there was video footage of the incident, but it does not exist anymore due to a change in camera systems. One officer testified that he had watched the video at some point, but that “it wasn’t all that interesting.” The footage was of the outside of the cell and all the officer could see was an empty room with glass falling. The window was eventually replaced for \$318.64. The jury found Lueck guilty and the district court sentenced Lueck to 90 days in jail and ordered \$318.64 in restitution. This appeal follows.

DECISION

Lueck argues that the evidence is insufficient to support his conviction of fourth-degree criminal damage to property. Because the circumstances proved provide for a reasonable inference other than guilt, we reverse Lueck’s conviction.

To convict Lueck of fourth-degree criminal damage to property, the state was required to prove that Lueck “intentionally cause[d] damage to another person’s physical property without the other person’s consent, reducing the property’s value by less than \$500.” Minn. Stat. § 609.595, subds. 2, 3 (2016). “‘Intentionally’ means that the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result.” Minn. Stat. § 609.02, subd.

9(3) (2016). Generally, the state proves intent by introducing circumstantial evidence. *State v. Mattson*, 359 N.W.2d 616, 617 (Minn. 1984); *see also State v. Johnson*, 616 N.W.2d 720, 726 (Minn. 2000) (“A state of mind generally is proved circumstantially, by inference from words and acts of the actor both before and after the incident.”). Circumstantial evidence is “evidence from which the [fact-finder] can infer whether the facts in dispute existed or did not exist.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted).

When the state relies solely on circumstantial evidence to prove the element of intent, we apply the circumstantial-evidence standard of review. *State v. Griffin*, 887 N.W.2d 257, 264 (Minn. 2016). The circumstantial-evidence standard requires a “review [of] the sufficiency of the evidence using a two-step analysis.” *State v. Barshaw*, 879 N.W.2d 356, 363 (Minn. 2016). The first step is to “identify the circumstances proved, deferring 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). Under the second step of the circumstantial-evidence test, the reviewing court must “independently examine the reasonableness of all inferences that might be drawn from the circumstances proved to determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of 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. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002). In this second step, no deference is

given to the jury's verdict. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). "If a reasonable inference other than guilt exists, then we will reverse the conviction." *Id.*

In this case, the state proved the following circumstances at trial: (1) the window was not broken before the officer served Lueck dinner; (2) the officer heard a "very brief" noise coming from M-Block after serving dinner; (3) the officer returned to M-Block and observed that the M-2 cell-door window was broken; (4) Lueck was the only person in the M-2 cell; (5) the inmate in M-1 could not have broken the window; (6) no one else had access to cell M-2; (7) inside cell M-2, the officer observed broken glass and a dinner tray on the ground with a towel wrapped around the end of it; (8) Lueck was compliant and remained quiet while the officers cleaned up; (9) Lueck was not injured; and (10) the window cost \$318.64 to repair.

Lueck argues that a reasonable inference from the circumstances proved is that he accidentally broke the window. We agree that the jury could have reasonably inferred that Lueck accidentally broke the cell door window. The state argues that the tray wrapped in a towel is inconsistent with breaking the window by accident. According to the state, the position of the towel indicates that Lueck sought to protect himself from glass shards when he deliberately broke the window. Relying on *Johnson*, 616 N.W.2d at 726, and *Barnslater v. State*, 805 N.W.2d 910, 914-15 (Minn. App. 2011), the state argues that Lueck intentionally broke the window because he banged the window with the tray or threw the tray at the window and because the natural and probable consequence of doing either act is damage to the window.

The circumstances proved, however, do not rule out the possibility of damaging the window by accident. There is no evidence that Lueck used the tray to bang on the window or that he threw the tray at the window. There is no evidence regarding how the window broke, the type of glass used in the window, or the degree of force necessary to break the glass on the window. While the jury could have concluded that Lueck used the tray to deliberately break the window, the circumstances proved also support another reasonable conclusion: that Lueck accidentally broke the window. The circumstances proved do not “exclude beyond a reasonable doubt” the inference that the window was broken by accident. *Taylor*, 650 N.W.2d at 206. Because the circumstances proved do not exclude this inference, we reverse the conviction.

Reversed.