

*This opinion is nonprecedential except as provided by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
A20-0738**

State of Minnesota,
Respondent,

vs.

Christopher Andrew Hondl,
Appellant.

**Filed April 26, 2021
Affirmed
Reyes, Judge**

Steele County District Court
File No. 74-CR-19-1317

Keith Ellison, Attorney General, Ed Stockmeyer, Assistant Attorney General, St. Paul, Minnesota; and

Daniel McIntosh, Steele County Attorney, Owatonna, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Abigail H. Rankin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Worke, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this direct appeal from his judgment of conviction, appellant argues that insufficient evidence supports the jury's verdict that he fled a peace officer in a motor vehicle and drove recklessly. We affirm.

FACTS

On July 27, 2019, an Owatonna police officer ran a search on the license plate of a green Chevrolet Suburban stopped at a stop sign, revealing that the vehicle's owner, appellant Christopher Andrew Hondl, had a revoked driver's license. The officer viewed the driver's license photo after clicking the revoked license information. He saw the Suburban's driver, who he thought matched appellant's driver's license photo. The officer saw the driver a second time after repositioning his vehicle and noticing the driver looking at him. He pulled in one car behind the Suburban and turned on his siren and lights after the intervening vehicle turned. The Suburban initially pulled to the curb, but then sped away. The officer estimated that the Suburban reached speeds of 65 to 70 miles per hour in town and observed it run a stop sign and pass traffic using a turn lane. Following Owatonna police protocols, the officer terminated pursuit for safety reasons and because he had identified appellant twice as the driver.

Three to five minutes later, the officer heard a radio transmission that a green SUV had crashed near where he terminated pursuit and consistent with the SUV's route based on the last time he saw it. He drove to the crash site and confirmed that the SUV matched the Suburban he had chased. The officer continued onto a nearby street, where he recognized appellant, shirtless and wearing jeans, and arrested him.

Respondent State of Minnesota charged appellant with fleeing a peace officer in a motor vehicle under Minn. Stat. § 609.487, subd. 3 (2018), and reckless driving under Minn. Stat. § 169.13, subd. 1(a) (2018). A jury found appellant guilty of both counts, and the district court convicted appellant of both counts. For the fleeing-a-peace-officer

charge, the district court stayed execution of a 15-month sentence, placed appellant on probation for three years, and imposed a 90-day jail sentence. It imposed a concurrent 90-day jail sentence for reckless driving.¹ This appeal follows.

DECISION

Appellant argues that insufficient evidence supports the jury’s verdict, specifically that he was the driver. We disagree.

As an initial matter, the parties dispute what standard applies to our sufficiency-of-the-evidence review on appeal. Appellant argues that the circumstantial-evidence standard applies, while the state argues for the direct-evidence standard.

Direct evidence is evidence “based on personal knowledge or observation that . . . proves a fact without inference or presumption.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (citations and quotations omitted). In contrast, circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quoting *State v. Hokanson*, 821 N.W.2d 340, 354 n.3 (Minn. 2012)).

¹ We observe that appellant received sentences for reckless driving and fleeing, which appear to be part of the same behavioral incident. See Minn. Stat. § 609.035 (2020); *State v. Gilbertson*, 323 N.W.2d 810, 812 (Minn. 1982) (reversing multiple sentencing because reckless driving and fleeing police were part of same behavioral incident). However, we note that whether offenses arise from the same behavioral incident is a fact-dependent inquiry. *Gilbertson*, 323 N.W.2d at 812. The record here is insufficient for us to resolve this issue because neither party raised it before the district court or on appeal. *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that appellate court will not decide issues not raised before district court); *State v. Butcher*, 563 N.W.2d 776, 780 (Minn. App. 1997) (stating that inadequately briefed issues are not properly before this court), *review denied* (Minn. Aug. 5, 1997).

Here, the officer's identification of appellant and testimony that he saw the Suburban speeding away from the officer in town after he turned on his lights and siren, running a stop sign, and passing traffic in a turning lane is direct evidence of the two charges: it is based on personal observation and, if true, proves that appellant drove the Suburban which fled police and drove recklessly without inference or presumption. But the state also offered the testimony of T.J., who drove by the Suburban shortly after it crashed and saw a bald man wearing jeans and a black shirt walking away from the vehicle. T.J.'s testimony is circumstantial evidence of the driver's identity because it requires the jury to infer that the person T.J. saw was appellant and that appellant was the driver, based on the person's appearance and proximity to the Suburban. Thus, the state used both direct and circumstantial evidence to prove appellant was the driver.

When the state presents both direct and circumstantial evidence of an element, but the direct evidence alone sufficiently supports the element, the supreme court has applied the direct-evidence standard.² *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (applying direct-evidence standard because state presented sufficient direct evidence on disputed element) (citing *State v. Flowers*, 788 N.W.2d 120, 133 n.2 (Minn. 2010)). We therefore apply the direct-evidence standard.

² Minnesota law has not resolved what standard applies when the state's evidence necessarily relies on both direct and circumstantial evidence. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013) (declining to resolve what standard applies when evidence includes both direct and circumstantial evidence); *Harris*, 895 N.W.2d at 610 (Lillehaug, J., dissenting) (noting that supreme court has not resolved this issue).

When reviewing the sufficiency of direct evidence, we ask “whether the facts in the record and the legitimate inferences drawn from them” allow the jury, giving due regard to the presumption of innocence and the state’s burden of proof, “to reasonably conclude that the defendant was guilty beyond a reasonable doubt.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quoting *State v. Moore*, 481 N.W.2d 355, 360 (Minn. 1992)). The uncorroborated testimony of a single credible witness may be sufficient to support conviction. *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004). We view the evidence in the light most favorable to the verdict, *Bernhardt v. State*, 684 N.W.2d 465, 477 (Minn. 2004), and assume that the jury believed the state’s witnesses. *Foreman*, 680 N.W.2d at 538. Finally, we give due regard to the jury’s role of weighing witness credibility. *Al-Naseer*, 788 N.W.2d at 473.

Here, the officer testified that he saw the driver of the Suburban and that he thought the driver matched appellant’s driver’s license photo. He saw the driver a second time after repositioning his vehicle. The officer testified that he was confident that appellant was the driver. After the officer activated his siren and lights, he saw the Suburban pull to the curb, abruptly speed away, reach 65 to 70 miles per hour, run a stop sign, and pass traffic erratically. This testimony alone sufficiently supports the jury’s verdict on both counts.

Appellant argues that the officer’s testimony is insufficient because he caught only “fleeting glimpses” of the driver and did not offer specific descriptors of the driver. However, we assume the jury believed the officer’s testimony. *Foreman*, 680 N.W.2d at 538. Further, the officer testified that he saw the driver looking at him as the Suburban drove by, showing that he had more than a “fleeting glimpse” of the driver. It is the jury’s

function to assess credibility, and here, the jury implicitly found the officer's testimony credible. *Al-Naseer*, 788 N.W.2d at 473.

Appellant argues that T.J.'s testimony is insufficient because T.J. did not know appellant, saw him only briefly, did not see him in the Suburban, and never identified appellant as the person she saw on the date of the incident. But appellant ignores that T.J.'s testimony does not stand on its own. Instead, it corroborates the officer's testimony. Further, because sufficient direct evidence shows that appellant drove the Suburban, T.J.'s testimony is unnecessary to support that element.

Appellant argues that the state could have collected more evidence, such as by ascertaining whether the Suburban's keys included a key to appellant's residence, searching for a black shirt near the crash site, asking for surveillance-camera footage, or canvassing the neighborhood for more witnesses. But we view the facts presented in the light most favorable to the verdict and ask whether a jury could reasonably find appellant guilty based on the evidence before it. See *Bernhardt*, 684 N.W.2d at 477; *Al-Naseer*, 788 N.W.2d at 473. Because the testimony of a single eyewitness may support a conviction, *Foreman*, 680 N.W.2d at 539, we conclude that sufficient evidence supports the jury's verdict finding appellant guilty, without additional evidence.

Affirmed.