

*This opinion is nonprecedential except as provided by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
A22-0465**

State of Minnesota,
Respondent,

vs.

Leslee Ann Randberg,
Appellant.

**Filed February 27, 2023
Reversed
Bryan, Judge**

Clearwater County District Court
File No. 15-CR-20-50

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

Kathryn Lorsbach, Clearwater County Attorney, Bagley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this direct appeal of her conviction for third-degree burglary of a camper, appellant disputes the sufficiency of the evidence presented against her. Because we conclude that the circumstantial evidence presented does not exclude a rational hypothesis consistent with innocence, we reverse the conviction.

FACTS

On February 10, 2020, respondent State of Minnesota¹ charged appellant Leslee Ann Randberg with one count of third-degree burglary. The state alleged that Randberg had intentionally entered a camper owned by R.M. and B.M. and committed theft inside. The case proceeded to a jury trial. The following facts are taken from the evidence presented at trial.

The owners of the camper, R.M. and B.M., both testified at trial. R.M. explained that the camper was parked outside their house when the house burned down in January 2019. After the house fire, R.M. and B.M. “couldn’t stay in the camper” and had to “leave it like it was” because the camper had no power and was “iced in” by water sprayed to fight the house fire. R.M. explained that, between January and April 2019, he went out to check on the camper “about every couple weeks.” R.M. testified that, during that time, the camper was “broken into a few times” through the window. He stated that he would “re-board up the window every time,” but the break-ins continued.

R.M. explained that on April 18, 2019, he and B.M. tried to move the camper to a shop for repairs. However, they were unable to move the camper that day due to mud from snowmelt. R.M. testified that they returned to the camper on April 21 to try again and found that the tires and batteries had been removed from the camper since their last visit. R.M. observed tire tracks, “grease-type” fingerprints on the door, and “jacks and stuff” left

¹ The state did not file a brief or make any other submissions. This court issued an order on October 17, 2022, stating that the case would proceed without a response from the state. *See* Minn. R. Civ. App. P. 142.03.

underneath the tires—none of which had been there on April 18. R.M. stated that he also saw that the window had been broken again. R.M. observed that “[t]here was more stuff moved around and things” inside the camper, including some garbage that B.M. had previously cleaned up. R.M. believed that an intruder had entered the camper through the window because the door was locked and had not been opened. R.M. did not identify any items that had been stolen or removed from inside the camper.

B.M. also testified about visiting the camper on April 18 and 21. She recounted that on April 21, the tires and batteries were missing, a board on the window had been knocked down, and there were “handprints . . . by the side box” that had not been there previously. B.M. also stated that she had previously cleaned up some garbage inside the camper during a recent visit, and that when she entered the camper on April 21 that garbage had been dumped out on the floor. B.M. was not sure when she had previously cleaned up inside the camper but believed that she had done so during her and R.M.’s April 18 visit. R.M. and B.M. both explained that they called law enforcement on April 21 and that an officer came to the camper in response. In her testimony, B.M. did not identify any items stolen or missing from inside the camper after the April 18 visit.

The officer who responded to R.M. and B.M.’s April 21 call—a deputy sheriff for Clearwater County—also testified at trial. She testified that when she arrived at the camper, “[i]t was missing all of its tires,” there were tire jacks, cut wires in some of the externally accessible compartments, and nearby tracks in the dirt. The officer also testified that there was a broken window and that there were either mud, oil, or grease prints on at least two of the external compartment doors and the main camper door. The officer dusted

two of the external compartment doors for fingerprints where she saw “some smudges with some ridge detail” and was able to collect two latent fingerprints. She was not able to obtain fingerprints from the main camper door, external compartment door handles, tire jacks, or any surface on the inside of the camper. The officer took photographs of the of the missing tires, cut wires, smudges, fingerprints, and broken window that were admitted as exhibits at trial.

An investigator with the Clearwater County Sheriff’s office testified that he submitted a request to the Bureau of Criminal Apprehension (BCA) for analysis of the fingerprint evidence. A BCA forensic scientist testified that she found one incomplete latent print that she believed was suitable for analysis. The scientist ultimately “identified [the latent print] to the left ring finger of Leslee Ann Randberg.” She explained: “that means that I believe, based on the observed data, that there is a strong proposition that this is from the same individual and very weak support that this is from a different individual.” The scientist did not qualify her conclusion beyond her statement that there was strong support that the latent print was left by Randberg and weak support that someone else left the latent print.

After hearing this evidence, the jury found Randberg guilty of third-degree burglary. The district court stayed the imposition of Randberg’s sentence and placed her on probation for five years. This appeal follows.

DECISION

Randberg argues that there was insufficient evidence to convict her of third-degree burglary because the evidence did not establish beyond a reasonable doubt that Randberg

entered the camper.² Because we conclude that the circumstances proved do not negate the possibility that Randberg did not enter the camper, we reverse the conviction.

When reviewing a sufficiency of the evidence claim, appellate courts apply a different standard of review depending on whether the direct evidence establishing a particular element is sufficient to sustain the verdict. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). Where “the direct evidence of guilt on a particular element is not alone sufficient to sustain the verdict,” this court applies the heightened circumstantial-evidence standard of review. *Id.* Circumstantial evidence is “evidence from which the factfinder 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). This type of evidence “always requires an inferential step to prove a fact that is not required with direct evidence.” *Id.*

We thus conduct a two-step analysis when reviewing the sufficiency of circumstantial evidence. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010). In the first step, we “identify the circumstances proved,” deferring to the jury’s credibility determinations and weighing of the evidence. *Id.* (quotation omitted). In the second step, we independently consider whether the circumstances proved are “consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* at 330. “Circumstantial

² Randberg also argues that there was insufficient evidence presented that the camper was capable of affording shelter. Minn. Stat. § 609.581, subd. 2 (2018) (defining “building” as “a structure suitable for affording shelter for human beings including any appurtenant or connected structure”). We acknowledge that the record includes testimony from R.M. and B.M. that the camper lacked power, needed repairs, and that they could not stay in it. However, because we conclude that the evidence is not sufficient to establish that Randberg entered the camper, we need not address Randberg’s argument that the camper was not a “building” at the time of the alleged offense.

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). No deference is given to the jury’s choice between reasonable inferences. *Harris*, 895 N.W.2d at 601.

The elements of third-degree burglary are set forth in Minnesota Statutes section 609.582, subdivision 3 (2018): a person commits third-degree burglary if that person “enters a building without consent and with intent to steal or commit any felony or gross misdemeanor while in the building, or enters a building without consent and steals or commits a felony or gross misdemeanor while in the building, either directly or as an accomplice.” Our analysis focuses on the element regarding entry. Because the state presented no direct evidence that Randberg entered the camper, the circumstantial evidence standard applies to our review of that element.

The circumstances proved are as follows. The camper was broken into multiple times between January and April 2019. On April 18, the camper had its tires and batteries, there were no smudges on the outside of the camper, the camper’s window was secure, and the inside of the camper was clean. On April 21, the camper’s tires and batteries had been removed, there were smudges on the door and externally accessible compartments, and someone had broken through the camper’s window and moved things around inside. Finally, there is a “strong support” for the proposition that Randberg left a fingerprint on

one of the external compartments and weak support for the proposition that someone else left the fingerprint.³

We next consider whether the circumstances proved are “inconsistent with any rational hypothesis except that of guilt.” *Andersen*, 784 N.W.2d at 330. The latent fingerprint was taken from the outside of the camper, and the state presented no evidence that this same person necessarily entered the camper. Moreover, the entry occurred sometime in a three-day span and the camper had been subject to multiple recent break-ins. In the absence of any evidence that these break-ins were committed by the same person, a reasonable fact finder could infer that the person who left the latent fingerprint and the person or people who entered the camper were different people. The circumstances proved do not exclude beyond a reasonable doubt the possibility that Randberg could have been present outside the camper between April 18 and April 21 without ever actually entering the camper. Therefore, the evidence is not sufficient to support Randberg’s burglary conviction.

Reversed.

³ The scientist testified that there is strong support for her conclusion that Randberg left the fingerprint, but given our decision regarding the entry element, we need not decide whether “strong support” satisfies the standard of proof in a criminal case. Similarly, we note that the evidence presented did not include any testimony that there were missing items from inside the camper. To commit burglary, a person must either (1) enter a building “with intent to steal or commit any felony or gross misdemeanor while in the building,” or (2) actually “steal[] or commit[] a felony or gross misdemeanor while in the building.” Minn. Stat. § 609.582, subd. 3. In light of our determination, we need not determine whether the state presented sufficient evidence that Randberg had the intent to or actually did steal items from inside the camper.