

*This opinion is nonprecedential except as provided by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
A22-1155**

State of Minnesota,
Respondent,

vs.

Ayub Abucar Hagi Iman,
Appellant.

**Filed May 15, 2023
Affirmed
Worke, Judge**

Olmsted County District Court
File No. 55-CR-19-4186

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

Mark A. Ostrem, Olmsted County Attorney, James E. Haase, Assistant County Attorney,
Rochester, Minnesota (for respondent)

Howard Bass, Bass Law Firm, PLLC, Burnsville, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Worke, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges his conviction for aiding and abetting second-degree murder,
arguing that the evidence is insufficient to support the conviction. We affirm.

FACTS

On the morning of March 5, 2019, Garad Roble was found shot to death on a gravel road. The night before, March 4, at around 9:30 p.m., four friends, A.A., M.A., F.H.-M., and A.L., went to a bar in downtown Rochester.¹ While at the bar, M.A. repeatedly called Roble, asking him to join the group at the bar. A.A.'s and M.A.'s cellphones were in the vicinity of the bar from about 9:30 p.m. to 11:30 p.m. Approximately one hour after the group arrived, Roble was dropped off at the bar. Roble's cellphone was in the vicinity of the bar between 10:26 p.m. and 11:09 p.m.

When the group left the bar, F.H.-M. and A.L. went back to F.H.-M.'s residence. A.A., M.A., and Roble went to Meadow Park Apartments (the apartments) and then to F.H.-M.'s residence. The three men's cellphones placed them in the vicinity of F.H.-M.'s residence from around 1:00 a.m. until approximately 2:00 a.m.

Appellant Ayub Abucar Hagi Iman was not identified as being at the bar that night. At approximately 10:30 p.m., Iman's cellphones were in the vicinity of the apartments. At 11:50 p.m., Iman's cellphones were in the vicinity of M.A.'s residence. And between 1:22 a.m. and 1:39 a.m., Iman's cellphones were in the vicinity of the residence shared by A.Ab. and E.G.² Iman arrived at F.H.-M.'s residence around 1:47 a.m.

¹ An investigator testified that A.A. also went by the names "Esko" or "Yusef" and his brother M.A. also went by the names "KO" or "Knockout." And A.L. testified that F.H.-M. also went by the name "Leeyah," and she went by the name "Lambo."

² According to investigators, A.Ab. was also known as "Benny" and E.G. was also known as "Red."

When A.A. and A.L. left F.H.-M.'s residence, A.L. saw a car parked near A.A.'s vehicle. A.A. approached the car to see who was there. She saw Iman alone in the car. She asked Iman what he was doing there. Iman stated that he was there to pick up M.A.

A.L. went back inside the residence and saw F.H.-M., M.A., and Roble talking in the kitchen. She also saw "an item³ wrapped in a bed sheet that [M.A. and F.H.-M.] were going back and forth about possession of." M.A. was trying to get the item from F.H.-M. and F.H.-M. seemingly did not want to give it to him. A.L. could not understand what they were saying because they were speaking a different language. But she understood Roble when he asked F.H.-M. and M.A., in English, "if they were going to kill him." Neither responded to Roble's question.

Around 2:00 a.m., A.A. and A.L. left F.H.-M.'s residence. Around the same time, A.L. saw Iman, M.A., and Roble leave together in Iman's car.

In the early morning hours of March 5, 2019, Roble's body was found lying on the gravel road in the outskirts of Rochester. Roble had 11 gunshot wounds. Investigators found shell casings for a .40 caliber handgun, bullet fragments⁴, and three different cigarette butts near Roble's body.

Roble's cellphone was found with his body. The "significant locations" associated with Roble's cellphone showed that his cellphone was in the vicinity of where his body was found at about 2:15 a.m. until approximately 3:35 a.m. M.A.'s cellphone was powered

³ During A.L.'s testimony, she conceded that she had previously told investigators that the "item" F.H.-M. eventually gave M.A. was a handgun.

⁴ The bullet fragments were so badly damaged that forensic testing could not be performed.

off from 2:08 a.m. until 2:24 a.m. Between 2:14 a.m. and 2:16 a.m., Iman's cellphones connected to three different cellphone towers. Based on the distance Iman's cellphones were from each tower, Iman's cellphones were at the location where Roble's body was found. Iman's and M.A.'s phone records show that the two called each other multiple times between 9:36 p.m. on March 4 and 2:41 a.m. on March 5. On March 6, the service on one of the cellphones Iman was using the evening of March 4 and the morning of March 5 was deactivated.

Three days after Roble's body was found, a .40 caliber handgun and one magazine were found about "10 miles away" from where Roble's body was found on the ice under the Elton Hills Drive bridge (the bridge). The handgun matched the expended shell casings recovered near Roble's body. Inscribed on the magazine was the number "746" and the handgun was traced to the Missouri Highway Patrol. Investigators also found a magazine and holster for a .40 caliber handgun in the trash outside of A.Ab.'s residence. The magazine had the same "746" marking that the magazine found under the bridge had. A major male DNA profile from the magazine found in the trash matched E.G., who was then staying at A.Ab.'s residence. But E.G. and A.Ab. were both eliminated as suspects based on cellphone data and witness reports. Iman's cellphones, however, were in the vicinity of A.Ab.'s residence on March 5 at approximately 2:43 a.m. And M.A.'s cellphone was in the vicinity of the bridge from approximately 2:51 a.m. to 2:53 a.m.

Respondent State of Minnesota charged Iman and M.A. with the second-degree intentional murder of Roble. M.A. pleaded guilty to second-degree intentional murder on an aiding-and-abetting theory.

On April 5, 2022, a jury found Iman guilty of aiding and abetting second-degree intentional murder. The district court sentenced Iman to 326 months in prison. This appeal followed.

DECISION

Iman argues that the state failed to prove beyond a reasonable doubt that he intended to aid and abet M.A. in murdering Roble. *See* Minn. Stat. §§ 609.19, subd. 1(1) (second-degree intentional murder); .05, subd. 1 (2018) (accomplice liability). To support a conviction of second-degree intentional murder, the state is required to prove, beyond a reasonable doubt, that the defendant: (1) caused the death of another, (2) with the intent to effect the death of that person, (3) but without premeditation. Minn. Stat. § 609.19, subd. 1(1). “With intent to” “means that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2018).

“A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.” Minn. Stat. § 609.05, subd. 1. “[T]he [s]tate must prove that the defendant knew his alleged accomplice was going to commit a crime and the defendant intended his presence or actions to further the commission of that crime.” *State v. Huber*, 877 N.W.2d 519, 524 (Minn. 2016) (quotation omitted). “When determining whether a person played a knowing role in the commission of the crime, we may infer criminal intent from the person’s presence, companionship, and conduct both before and after the crime.” *State v. Cox*, 820 N.W.2d 540, 549 (Minn. 2012). The purpose of accomplice liability is

clear, when two accomplices “point the finger at the other as the truly guilty one, the state may charge and prosecute both.” *State v. Atkins*, 543 N.W.2d 642, 646 (Minn. 1996).

“When evaluating the sufficiency of the evidence, appellate courts carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury to reasonably conclude” the defendant’s guilt beyond a reasonable doubt. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). “We view the evidence in the light most favorable to the verdict and assume that the jury disbelieved any evidence that conflicts with the verdict.” *State v. Bahtuoh*, 840 N.W.2d 804, 809 (Minn. 2013).

When a conviction is based on circumstantial evidence, as is the case here, appellate courts apply a heightened level of scrutiny. *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). Under this standard, we “consider whether the reasonable inferences that can be drawn from the circumstances proved support a rational hypothesis other than guilt.” *Id.* (quotation omitted).

Appellate courts apply a two-step process when reviewing circumstantial evidence. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). Step one requires us to identify the circumstances proved by the state. *Id.* To do so, appellate courts must “winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict” while disregarding any evidence inconsistent with the verdict. *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017). Step two requires us to determine “whether a reasonable inference of guilt can be drawn from the circumstances proved, viewed as a whole, and whether a reasonable inference inconsistent with guilt can be drawn.” *Id.* Therefore, the state must

prove beyond a reasonable doubt that Iman played a knowing role in the intentional murder of Roble.

Circumstances proved

We first determine the circumstances proved.

1. Between approximately 9:30 p.m. and 10:30 p.m., M.A. repeatedly called Roble asking him to come to the bar where he was with A.A., A.L., and F.H.-M.
2. At about 10:30 p.m., Iman's cellphones were in the vicinity of the apartments.
3. At about 11:50 p.m., Iman's cellphones were in the vicinity of M.A.'s residence.
4. At around 12:24 a.m. until about 1:20 a.m., Roble, M.A., and A.A. were recorded on the apartments' surveillance cameras.
5. At about 1:30 a.m., Iman's cellphones were in the vicinity of A.Ab.'s residence.
6. Just before 2:00 a.m., A.L. saw Iman in a car outside of F.H.-M.'s residence.
7. Iman told A.L. that he was there to pick up M.A.
8. A.L. saw an "item" that F.H.-M. did not want M.A. to have.
9. A.L. heard Roble ask F.H.-M. and M.A. "if they were going to kill him."
10. Iman, Roble, and M.A. left together in Iman's car around 2:00 a.m.
11. In the hours leading up to Roble's murder, M.A. and Iman called each other 14 times.
12. At about 2:08 a.m., M.A. turned off his cellphone.
13. At about 2:15 a.m., Iman's and Roble's cellphones were in the vicinity of where Roble's body was found.

14. At about 2:25 a.m., M.A. turned on his cellphone.
15. At about 2:30 a.m., M.A.'s cellphone was in the vicinity of A.Ab.'s residence.
16. At about 2:44 a.m., Iman's cellphones were in the vicinity of A.Ab.'s residence.
17. At about 2:45 a.m., M.A.'s cellphone was in the vicinity of the bridge.
18. Investigators found .40 caliber shell casings near Roble's body.
19. On March 6, the service on one of the cellphones Iman was using the night of March 4 and the morning of March 5 was deactivated.
20. On March 8, investigators found a handgun holster containing a .40 caliber magazine with the number "746" inscribed on it in the trash outside of A.Ab.'s home.
21. On March 8, investigators also found a .40 caliber handgun under the bridge with a magazine inscribed with same number—746—as the magazine found in the trash outside of A.Ab.'s home.

Inferences from the circumstances proved

We next consider whether these circumstances proved are consistent with Iman's guilt and preclude any rational hypothesis inconsistent with his guilt. Iman argues that the circumstances proved are consistent with a rational hypothesis other than guilt. Specifically, he argues that, even if the circumstances proved place Iman at the scene of the murder, they are not inconsistent with the rational hypothesis that Iman did not knowingly aid in Roble's homicide.⁵

⁵ Iman does advance a limited argument that the circumstances proved are inconsistent with guilt; specifically, he asserts that the evidence is insufficient because (1) cell site location information (CSLI) evidence, which tended to prove Iman's presence at the murder scene, has limited accuracy and (2) even if his cellphones were at the murder scene, it is possible that Iman did not have his cellphones with him. The arguments are unavailing

In support of his assertion, Iman cites *State v. Spann*, 986 N.W.2d 205, 205 (Minn. 2023). But *Spann* is distinguishable because it interpreted Minn. Stat. § 634.04 (2022)—the accomplice-corroboration statute—and the “knowing role” a witness plays regarding a crime committed by another. 986 N.W.2d at 211.

The supreme court established the following:

A witness is considered an accomplice when the witness could have been indicted and convicted for the crime with which the defendant is charged However, the witness must have played a knowing role in the crime. A witness’s mere presence at the scene, inaction, knowledge and passive acquiescence is not enough. Additionally, an accessory after the fact is not an accomplice.

Id. at 211-12 (quotations omitted). Iman asserts that the evidence merely suggests his presence at the murder scene. We disagree.

Viewing the evidence in the light most favorable to the verdict, as we must, the state proved that Iman, M.A., and Roble were in close proximity throughout the evening of March 4 into the morning of March 5 and were seen in Iman’s car minutes before Roble was thought to be murdered. M.A. turned his cellphone off during the drive to a remote location and turned it back on during the drive from the remote location to A.Ab.’s residence. Iman’s and Roble’s cellphones were in the vicinity of where Roble’s body was found with 11 gunshot wounds. Iman and M.A. called each other multiple times before and once after Roble’s murder. And after Roble’s murder, Iman disposed of one of his

because the jury found the CSLI evidence reliable and the idea that Iman was not with his cellphones is pure conjecture. *See State v. Pendleton*, 706 N.W.2d 500, 512 (Minn. 2005) (stating a reviewing court defers to the jury’s credibility determinations and will not reweigh the evidence on appeal).

cellphones and activated a new cellphone the next day. M.A.'s cellphone was in the vicinity of the bridge shortly after Roble was thought to murdered. A .40 caliber handgun was found under the bridge with "746" inscribed on the magazine days after Roble's body was found. Investigators also found a handgun holster and a .40 caliber magazine with "746" inscribed on it in the trash outside of A.Ab.'s residence.

Based on Iman's actions leading up to and following Roble's murder, the circumstances proved are inconsistent with the rational hypothesis that he was merely present at the scene of Roble's murder. *See Cox*, 820 N.W.2d at 549 (stating that whether a person played a knowing role as an accomplice may be inferred "from the person's presence, companionship, and conduct both before and after the crime"). Considering the totality of the circumstances proved by the state, which included the following: M.A.'s invitation for Roble to come to the bar on March 4, Iman's and M.A.'s regular communications with each other during the hours leading up to, and following Roble's murder, Iman's proximity to various locations visited by M.A. on March 4 (including the apartments and A.Ab.'s residence), witness testimony that Iman drove to F.H.-M.'s residence to pick up M.A., and that Iman, M.A., and Roble left F.H.-M.'s residence together in Iman's car shortly before Roble's murder, M.A. turning his cellphone off at some point during the drive to the murder scene, Iman's and M.A.'s cellphones were in the vicinity of A.Ab.'s residence shortly after Roble was thought to be murdered, and Iman deactivating one of the cellphones he used the evening of March 4 and morning of March 5, and activating a new cellphone in the days following Roble's murder. Thus, the

circumstances proved by the state are consistent with Iman's guilt and preclude any rational hypothesis inconsistent with his guilt.

Affirmed.