

*This opinion is nonprecedential except as provided by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
A23-1625**

State of Minnesota,
Respondent,

vs.

Savanna Novel Adams,
Appellant.

**Filed August 19, 2024
Reversed and remanded
Cleary, Judge***

Blue Earth County District Court
File No. 07-CR-22-3707

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

Mitchell S. Sell, Mankato City Attorney, Eckberg Lammers, P.C., Stillwater, Minnesota
(for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Bratvold, Judge; and Cleary,
Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

CLEARY, Judge

Appellant challenges her property-damage conviction, arguing that the district court abused its discretion by admitting hearsay and claiming that the circumstantial evidence is insufficient to sustain her conviction. Because we conclude that the district court abused its discretion by admitting the hearsay statement and the error was not harmless, we reverse appellant's conviction and remand for a judgment of acquittal.

FACTS

On September 4, 2022, around 10:00 or 11:00 p.m., K.P. awoke to “the sound of deep scratches” into metal coming from outside her apartment. K.P. lived on the third floor of her apartment building and her window was “parallel” to the parking lot. K.P. went on her balcony to see what was going on. It was dark, but there was a light on the garage. K.P. was not wearing her contacts or glasses, but she could “manage pretty much” without correction.

K.P. saw two individuals with purses run away from her car. K.P. believed that the two individuals “moved . . . like women.” The taller individual reminded K.P. of her coworker, appellant Savanna Novel Adams, because Adams is tall and thin. K.P. had seen the shorter individual before and “kind of knew her mannerisms.” The shorter individual looked in K.P.'s direction and yelled “Savanna, Savanna.”

K.P. called the police to report the damage to her car. The word “b- -h” had been scratched into the side of the car, food was strewn across the car, and sugar had been poured

into the gas tank. K.P. believed that Adams damaged her car because of an incident that occurred at work the previous day.

Respondent State of Minnesota charged Adams with third-degree damage to property. *See* Minn. Stat. § 609.595, subd. 2(a)(1) (2020). The district court held a one-day jury trial wherein only two witnesses testified—K.P. and Adams. The sole issue for the jury to decide was whether Adams was the person who damaged K.P.’s car.

K.P. testified about witnessing the individuals run away after damaging her car. She also testified about the incident at work that she believed caused Adams to damage her car. K.P. testified that Adams had been terminated because of the incident. About three months after the incident, K.P. learned that a mutual acquaintance had given Adams K.P.’s address at 9:00 p.m. on the night her car was damaged.

Adams testified that she was not really upset with K.P. about the work incident and was not terminated because of it. Adams claimed that she did not know where K.P. lived, she did not damage K.P.’s car, and she did not bring a friend to K.P.’s apartment to damage the car.

The jury found Adams guilty as charged. The district court sentenced Adams to 364 days in jail, with 345 days stayed for two years, and ordered her to pay \$500 in restitution. This appeal follows.

DECISION

Hearsay

Adams argues that the district court abused its discretion by admitting hearsay. This court reviews a district court’s evidentiary ruling on hearsay for an abuse of discretion.

Holt v. State, 772 N.W.2d 470, 483 (Minn. 2009). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017). “A defendant claiming error in the [district] court’s reception of evidence has the burden of showing both the error and the prejudice resulting from the error.” *State v. Loebach*, 310 N.W.2d 58, 64 (Minn. 1981).

Here, K.P. testified that she saw two individuals run away from her car and that the “shorter one was yelling, ‘Savanna, Savanna,’ as they were running away.” Adams objected. The prosecutor responded: “It’s not a statement. There is no assertion being used to prove any truth.” The district court overruled the objection. Adams argues that the district court abused its discretion by admitting the hearsay statement.

Hearsay is an out-of-court statement, made by a declarant, that is offered to prove the truth of the matter asserted. Minn. R. Evid. 801(c). Generally, hearsay statements are inadmissible at trial, unless an exception applies. Minn. R. Evid. 802. The parties do not argue that an exception applies. Rather, they dispute whether “Savanna, Savanna” is hearsay—an assertion offered to prove the truth of the matter asserted.

Adams claims that a statement that identifies a person is an assertion for the purposes of hearsay. She relies on *State v. Robinson* for this claim. *See* 718 N.W.2d 400, 407 (Minn. 2006) (holding that statement of identity is not admissible under medical-diagnosis exception to hearsay rule when foundation to establish identity of person who caused injury is insufficient). The state counters that “Savanna, Savanna” does not in and of itself assert any fact to be true. The state claims that the statement was not made to

express the fact that “Savanna” (Adams) was present at the scene, but rather, was used to get Savanna’s attention when the shorter person saw that K.P. was watching them.

Based on this trial record, the state used the statement “Savanna, Savanna” to prove that Adams was present at the scene and was the person who damaged the vehicle (the issue in dispute). The prosecutor’s closing argument illustrates the state’s use of this statement.

Despite having argued to the district court that the statement identifying Adams was not “used to prove any truth,” the prosecutor reversed course in the closing argument. The prosecutor stated: “[K.P.] testified that she saw two people right by her car. The shorter one looked up at her and saw her, and then yelled, ‘Savanna, Savanna,’ and then started to run away. That ‘Savanna’ was Savanna Adams.” He also stated: “[W]hen the shorter person yelled, ‘Savanna, Savanna,’ towards the taller person, [K.P.] recognized the taller person moved like a woman and that she seemed to recognize that it could have been Ms. Adams.” He stated: “There was a dispute at work the day before And then [K.P.] saw two people outside in the parking lot damaging her car, and one of them yelled, ‘Savanna, Savanna.’ It all fits together.”

We conclude that the hearsay statement was inadmissible. To secure reversal of her conviction, Adams must also show that she was prejudiced by the district court’s admission of the statement. Prejudice occurs when “there is a reasonable possibility that without the error the verdict might have been more favorable to the defendant.” *State v. Caine*, 746 N.W.2d 339, 349 (Minn. 2008) (quotation omitted). In assessing prejudice, this court considers the strength of the state’s evidence, the pervasiveness of the improperly admitted

evidence, and whether the defendant attempted to rebut the improper evidence. *See State v. Davis*, 735 N.W.2d 674, 682 (Minn. 2007).

Here, there is a reasonable possibility that without the erroneous admission of the evidence the jury would have found Adams not guilty. This was a circumstantial-evidence case with identity as the sole issue. The statement, used to identify the perpetrator, was crucial because there were only two witnesses at trial and K.P., the only witness identifying Adams, was not wearing her glasses or contacts, and was looking into a dark parking lot from a window three stories high. The state's other evidence of identity was not strong.

The use of the hearsay statement at trial identifying Adams was pervasive and used repeatedly by the prosecutor in the closing argument. Finally, the defense's attempt to counter the evidence was ineffective. Adams's attorney objected to the evidence but was overruled. In closing argument, Adams's attorney stated that instead of hearing "Savanna, Savanna," K.P. heard her own name, which sounds like Savanna. The statement was highly prejudicial to Adams and significantly affected the verdict, leading to reversal of the conviction for third-degree criminal damage to property.

Sufficiency of the evidence

We must now determine whether the evidence was sufficient to sustain Adams's conviction. Our conclusion here dictates the relief granted. *See State v. Clark*, 755 N.W.2d 241, 256 (Minn. 2008) (requiring reviewing court to consider insufficient-evidence argument, even when conviction reversed on other grounds, to determine whether retrial would violate Double Jeopardy Clause).

Retrial is not barred if a conviction is reversed based on trial error. *State v. Harris*, 533 N.W.2d 35, 36 (Minn. 1995). But the Double Jeopardy Clause of the United States Constitution precludes retrial if a conviction is set aside because the evidence supporting it is legally insufficient. *State v. Cox*, 779 N.W.2d 844, 853 (Minn. 2010). This court reviews all evidence admitted by the district court, even if it was erroneously admitted, in determining whether a retrial is warranted. *Id.* If the evidence of guilt is insufficient, then the Double Jeopardy Clause requires us to remand the case for judgment of acquittal. *See Clark*, 755 N.W.2d at 256.

The parties agree that evidence of Adams’s identity as the person who committed the offense was established with circumstantial evidence. Circumstantial evidence is that “from which the [jury] can infer whether the facts in dispute existed.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). This court reviews the sufficiency of circumstantial evidence in two steps. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, this court identifies the circumstances proved, deferring to the jury’s acceptance of the state’s proof of those circumstances and rejecting contrary evidence. *Id.* at 598-99. Next, this court independently examines “the reasonableness of all inferences that might be drawn from the circumstances proved.” *Id.* at 599 (quotation omitted). To sustain the conviction, the circumstances proved must be consistent with the hypothesis that the accused is guilty and inconsistent with any other “rational hypothesis.” *Id.* (quotation omitted). To support a “rational” alternative hypothesis, Adams must point to circumstances proved that are consistent with her innocence; she cannot solely rely on mere conjecture or the possibility of her innocence. *See State v. Tscheu*, 758 N.W.2d 849, 858,

861 (Minn. 2008); *see also State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002) (noting that “possibilities of innocence do not require reversal of a jury verdict so long as the evidence taken as a whole makes such theories seem unreasonable” (quotation omitted)). This court must assume that the jury rejected any portion of Adams’s testimony that contradicts the circumstances proved by the state. *See State v. Jackson*, 741 N.W.2d 146, 154 (Minn. App. 2007), *rev. denied* (Minn. Oct. 21, 2008).

The circumstances proved include: (1) Adams and K.P. were coworkers; (2) Adams did not like K.P.; (3) Adams and K.P. had a dispute at work; (4) a manager discussed the dispute with Adams and she became “extremely defense”; (5) Adams parked next to K.P.’s car and yelled at K.P. about the dispute; (6) the day after the dispute Adams was fired; (7) at 9:00 p.m. the day after the dispute Adams learned K.P.’s address; (8) around 10:00 p.m. K.P. awoke to “the sound of deep scratches” coming from outside her window; (9) K.P. saw her car from her balcony and two people who “moved like women” holding purses run away from her car; (10) the shorter person looked up, saw K.P., and yelled “Savanna, Savanna,” before the two ran away; (11) K.P. had seen the shorter one before and “kind of knew her mannerisms”; (12) the taller person “reminded” K.P. of Adams because “she’s tall and thin”; (13) scratches, food, and the word “b- - h” had been scratched into K.P.’s car; and (14) the only person that K.P. had a problem with was Adams.

The circumstances proved support a rational hypothesis that Adams damaged K.P.’s car. Adams raises alternative hypotheses—she was not there and someone else damaged the car, or, even if she was there, the shorter person damaged the car. These alternative

hypotheses are consistent with Adams's innocence. K.P. did not testify that she saw anyone damage her car. She testified that she heard her car being damaged. But she did not see anyone damage her car and she did not positively identify anyone. K.P. testified that she thought she saw women because of the way they moved, and they carried purses. K.P. testified that she "kind of knew [the] mannerisms" of the shorter person. K.P. testified that the other person "reminded [her] of Adams because she's tall and thin." The evidence supports the rational hypotheses that Adams was not at the scene and, that even if she was at the scene, she did not damage K.P.'s car. Based on this record, the evidence is insufficient of guilt. We reverse and remand for judgment of acquittal.

Reversed and remanded.