

*This opinion is nonprecedential except as provided by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
A24-0247**

State of Minnesota,
Respondent,

vs.

Geraldo Torres,
Appellant.

**Filed February 10, 2025
Reversed
Florey, Judge***

Clay County District Court
File No. 14-CR-22-3618

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

Brian J. Melton, Clay County Attorney, Pamela L. Foss, Assistant County Attorney,
Moorhead, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, John Patrick Monnens, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Slieter, Judge; and Florey,
Judge.

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

NONPRECEDENTIAL OPINION

FLOREY, Judge

Appellant challenges his conviction of fifth-degree controlled-substance possession, arguing the evidence was insufficient to sustain his conviction. Because the circumstances proved do not exclude the reasonable inference that appellant did not possess methamphetamine, we reverse.

FACTS

In October 2022, law enforcement officers obtained information that appellant Geraldo Torres, who was subject to an active arrest warrant, was driving a Ford truck and was at an apartment building in Moorhead. Acting on that information, officers surveilled the apartment and observed Torres exit the building and enter the rear passenger side of a Chevy Suburban occupied by a driver and front-seat passenger. Officers did not observe Torres carrying any bags when he entered the vehicle.

When the vehicle left the scene, an officer executed a traffic stop and instructed the occupants to exit the vehicle. The driver, S.A., and front-seat passenger, C.D., complied, but Torres initially did not. After nearly two minutes, Torres exited the vehicle and was arrested.

Officers searched the vehicle. Behind the driver's seat, on the passenger floorboard, officers found a Ford vehicle key and a knife. On the rear passenger seat, officers found a bag containing drug paraphernalia. Beneath the rear passenger seat, where Torres was sitting, officers found a pouch containing methamphetamine. Torres was charged with possession of the methamphetamine.

During Torres's bench trial, the district court heard testimony from the officers involved in the traffic stop and vehicle search, and from S.A. An officer testified that, when Torres was seated in the vehicle and refusing to exit, he observed Torres "reaching down . . . like he was digging into a bag that was nearby him." The officer further testified that Torres appeared to reach "down and to the left," and that he was "making furtive movements in that direction." The officer also testified that, while Torres was being booked into the jail, he admitted to using methamphetamine that morning.

The officer who found the methamphetamine testified that he found it "directly underneath . . . where [Torres] would be sitting in [the rear-passenger] seat on the floorboard." S.A. testified that the methamphetamine did not belong to her, and that she did not know either C.D. or Torres to be in possession of methamphetamine that day. S.A. also testified that "a couple backpacks" in the vehicle belonged to C.D.

The district court found Torres guilty of fifth-degree controlled-substance possession, in violation of Minn. Stat. § 152.025, subd. 2(1) (2022). The district court sentenced Torres to 21 months' imprisonment. This appeal followed.

DECISION

Torres concedes that the state's evidence was consistent with a finding of constructive possession, but argues the evidence was insufficient to exclude the reasonable, alternative hypothesis that he did not possess the methamphetamine.¹

¹ The district court found Torres had actual, constructive, and joint possession of the methamphetamine. Actual possession exists when a defendant has "actual or physical control" of contraband at the time of arrest. *State v. Florine*, 226 N.W.2d 609, 610 (Minn. 1975). Because there is no direct evidence that Torres possessed the methamphetamine,

Constructive possession is established if (1) “the police found the substance in a place under defendant’s exclusive control to which other people did not normally have access,” or (2) “if police found it in a place to which others had access, there is a strong probability (inferable from other evidence) that defendant was at the time consciously exercising dominion and control over it.” *State v. Florine*, 226 N.W.2d 609, 611 (Minn. 1975).

When a conviction is based on circumstantial evidence, we subject the verdict to heightened scrutiny and apply a two-step analysis. *State v. Hanson*, 800 N.W.2d 618, 622 (Minn. 2011). First, we identify the circumstances proved by “resolving all questions of fact in favor of the . . . verdict.” *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017). At this step, we defer to the fact-finder’s credibility determinations, *id.*, but “reject only the evidence that is inconsistent with . . . the [fact-finder]’s verdict.” *State v. Colgrove*, 996 N.W.2d 145, 151 (Minn. 2023).

Second, we analyze “whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt.” *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). We undertake this analysis independently, giving no deference to the inferences drawn by the fact-finder. *Id.* The 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 . . . any reasonable inference other than guilt.” *State v. Al-Naseer*, 788 N.W.2d

and there is no dispute that the methamphetamine was found under the seat, and not on Torres’s person, we conclude that this is a constructive-possession case relying on circumstantial evidence.

469, 473 (Minn. 2010). We will reverse a conviction if a reasonable inference other than guilt exists. *Id.* at 481. Appellate courts apply the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

Viewed in the light most favorable to the verdict, and eliminating only the evidence that is inconsistent with the verdict, the circumstances proved include the following: (1) there was an outstanding warrant for Torres's arrest; (2) officers had information that Torres was driving a Ford vehicle; (3) Torres was riding in a vehicle with two other occupants and was seated in the rear passenger seat; (4) when police stopped the vehicle, Torres was evasive and did not initially comply with commands to exit the vehicle; (5) while Torres remained in the vehicle, officers observed him making furtive reaching movements "down and to the left" like he was "digging into a bag"; (6) officers found methamphetamine in a pouch underneath Torres's seat; (7) officers found a bag on the rear passenger seat containing drug paraphernalia; (8) Torres was not carrying any bags when he entered the vehicle; (9) officers found a Ford vehicle key and knife on the rear driver's side floorboard; (10) S.A. testified that C.D. had bags in the vehicle; and (11) Torres admitted to using methamphetamine the morning he was arrested.

Because Torres concedes that the circumstances proved are consistent with guilt, we turn to the question of whether the circumstances proved are inconsistent with any reasonable hypothesis other than guilt. A hypothesis inconsistent with guilt need not be the most likely hypothesis, but it cannot rely on conjecture and must be supported by circumstantial evidence in the record. *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008).

Torres argues it is reasonable to conclude that he did not constructively possess the methamphetamine because the circumstances proved support the following chain of inferences: that the drugs were in the vehicle before he got into it because he did not carry any bags into the vehicle and S.A. testified that C.D. had bags in the vehicle; that he was initially evasive because he knew there was a warrant out for his arrest; and that he reached down and to his left because he was disposing of a knife and his vehicle key.

This hypothetical chain of events is consistent with the circumstances proved. It is undisputed that there were other passengers in the vehicle when Torres got in, that there was an active warrant for Torres's arrest, that officers had information that Torres was driving a Ford vehicle, and that officers found a Ford vehicle key on the floorboard, down and to the left of Torres's seat. Furthermore, Torres's admission that he used methamphetamine the day he was arrested is not *inconsistent* with a hypothesis other than guilt, particularly in light of the fact that officers found drug paraphernalia in a bag inside the vehicle and Torres was observed getting into the vehicle empty handed.

We have upheld possession convictions based on circumstantial evidence when there is evidence tying the defendant directly to the drugs. *See, e.g., State v. Wiley*, 366 N.W.2d 265, 270 (Minn. 1985) (drugs found in the defendant's home); *State v. Colsch*, 284 N.W.2d 839, 841 (Minn. 1979) (defendant's papers and checkbook found near the drugs); *State v. Barajas*, 817 N.W.2d 204, 220 (Minn. App. 2012) (defendant's fingerprint found on the bag of drugs); *State v. Porter*, 674, N.W.2d 424, 427 (Minn. App. 2004) (defendant admitted to police that the drugs were his); *State v. Porte*, 832 N.W.2d 303, 308 (Minn. App. 2013) (witness testified that he gave defendant the drugs). Such evidence is absent

here. And although the absence of evidence is not a circumstance proved and cannot support an alternative hypothesis, *State v. German*, 929 N.W.2d 466, 473 (Minn. App. 2019), evidence tying a defendant directly to contraband supports a conviction by excluding alternative hypotheses. Because the circumstances proved permit a reasonable hypothesis that Torres did not constructively possess the methamphetamine, solely or jointly, the state has not proved beyond a reasonable doubt that he was guilty of the charged crime. We therefore reverse his conviction for fifth-degree controlled-substance possession.

Reversed.