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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0782**

State of Minnesota,
Respondent,

vs.

Nathaniel Mark Thompson,
Appellant.

**Filed March 31, 2025
Affirmed in part, reversed in part, and remanded
Schmidt, Judge**

Blue Earth County District Court
File No. 07-CR-23-3703

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Patrick McDermott, Blue Earth County Attorney, Mankato, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Workman Jesness, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Frisch, Chief Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant Nathaniel Mark Thompson challenges the sufficiency of the evidence for his convictions for first-degree controlled-substance sale, second-degree controlled-substance possession, and receiving stolen property. We affirm Thompson's conviction

for receiving stolen property, reverse his first- and second-degree controlled-substance convictions, and remand for resentencing.

FACTS

Respondent State of Minnesota charged Thompson with three counts: (1) first-degree controlled-substance crime (possession of methamphetamine with intent to sell); (2) second-degree controlled-substance crime (possession of methamphetamine); and (3) receiving stolen property. The matter proceeded to a jury trial. The following facts are based on the evidence received at trial.

On October 1, 2023, C.C. reported that five bikes were stolen from his home in Mankato. C.C. had purchased three of the bikes for \$4,209.38, \$6,930.97, and \$3,135.10.

Law enforcement had been conducting ongoing surveillance of T.S. due to prior thefts and burglaries, and of Thompson because he had been involved in selling stolen items at a local pawn shop. On October 5, 2023, law enforcement observed Thompson and T.S. at a U-Haul storage facility in Mankato where they were seen going back and forth from a black Chevrolet Avalanche to a storage unit. Several “fairly unique bikes” were near the storage unit and law enforcement observed Thompson riding a bike.

An investigator with the Mankato Department of Public Safety observed Thompson, the registered owner of the Avalanche, sitting in the front passenger seat. When the investigator approached Thompson, Thompson put his hands up outside the truck’s window and cooperated. The investigator recovered a bag of needles from Thompson’s pants pocket.

Law enforcement found T.S. inside the storage unit. He was uncooperative. T.S. told the investigator that the storage unit belonged to both T.S. and Thompson. The storage unit was rented to a known alias of T.S. Investigators found one bike outside of the storage unit and a second bike behind the Avalanche. Both bikes had been stolen from C.C.

Law enforcement obtained a search warrant for the Avalanche and the storage unit. Inside the truck, police found the following:

- A title to the Avalanche signed by Thompson.
- A wallet containing Thompson's social security card on the front passenger seat.
- An orange jacket in the back seat on the passenger side. Inside the pocket of the jacket, police found a blue rubber glove containing two bags of a crystal-like substance and a small black digital scale that the investigator believed, from his experience, could be used for both narcotic use and sales.
- A bag of a crystal-like substance located under the driver's seat.
- A blue digital scale in the front driver's-side compartment, which an investigator believed, from his experience, could be used for both narcotic use and sales.
- A black and mint-green bike in the bed of the truck, which was identified as having been stolen from C.C.'s residence.
- Pawn slips with T.S.'s alias on them.

A forensic scientist with the Minnesota Bureau of Criminal Apprehension tested two of the three bags of the crystal-like substance and concluded that they contained methamphetamine. The smaller bag weighed over five grams and the larger bag weighed over 24 grams. The third bag was not tested because the weight of the other bags met the threshold for a felony-level controlled-substance crime.

The state's evidence at trial focused on the methamphetamine found in the jacket pocket. After the state rested, Thompson moved for judgment of acquittal on the stolen property charge, arguing that the state had failed to prove he knew, or had reason to know, that the bikes were stolen. The district court denied the motion. The jury found Thompson guilty of all three counts and found that the value of the bikes exceeded \$5,000.

The district court sentenced Thompson to 97 months' imprisonment on the first-degree controlled-substance offense, entered a conviction on the second-degree controlled-substance offense, and imposed a concurrent prison term of 19 months for the conviction of receiving stolen property.

Thompson appeals.

DECISION

I. The evidence is insufficient to prove that Thompson constructively possessed the methamphetamine.

Thompson challenges the sufficiency of the evidence for his controlled-substance convictions. Thompson was convicted of first-degree controlled-substance crime in violation of Minn. Stat. § 152.021, subd. 1(1) (2022) and second-degree controlled-substance crime in violation of Minn. Stat. § 152.022, subd. 2(a)(1) (2022). Both crimes require proof of possession of the methamphetamine. *See* Minn. Stat. §152.021, subd. 1(1) (“A person is guilty of controlled substance crime in the first degree if . . . the person unlawfully sells one or more mixtures of a total weight of 17 grams or more containing . . . methamphetamine[.]”); Minn. Stat. § 152.01, subd. 15a(1), (3) (2022) (“‘Sell’ means: (1) to sell, give away, barter, deliver, exchange, distribute or dispose of to

another, or to manufacture; or . . . (3) to possess with intent to perform an act listed in clause (1).”); Minn. Stat. § 152.022, subd. 2(a)(1) (“A person is guilty of controlled substance crime in the second degree if: (1) the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing . . . methamphetamine.”). “Possession may be proved through evidence of actual or constructive possession.” *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017).

“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 that the defendant was guilty beyond a reasonable doubt of the offence of which he was convicted.” *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 fact-finder “disbelieved any evidence that conflicted with the verdict.” *Id.*

When a verdict rests on circumstantial evidence, as it undisputedly does here, we apply a two-step analysis in our sufficiency review. *State v. Gilleylen*, 993 N.W.2d 266, 275 (Minn. 2023). The first step “involves identifying the circumstances proved.” *Id.* (quotation omitted). In doing so, appellate courts “winnow down the evidence presented at trial to a subset of facts that is consistent with the jury’s verdict and disregard evidence that is inconsistent with the jury’s verdict.” *Id.* (quotations omitted).

Step two requires us to “analyze whether the circumstances proved are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* (quotations omitted). We must “look at the circumstances proved not

as isolated facts but rather as 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. Sam*, 859 N.W.2d 825, 833 (Minn. App. 2015) (quotation omitted). A rational alternative hypothesis other than guilt cannot be based upon conjecture or speculation. *State v. Al-Naseer*, 788 N.W.2d 469, 480 (Minn. 2010).

We first identify the circumstances proved. At trial, the state proved the following:

- Law enforcement had been surveilling T.S. and Thompson for various crimes of theft, burglary, and pawning stolen items.
- Law enforcement observed both men and a black Chevrolet Avalanche at a U-Haul storage facility.
- Thompson was the registered owner of the Avalanche.
- Thompson and T.S. were observed going back and forth from the truck to the storage unit.
- When law enforcement approached, Thompson was seated in the front passenger seat of the truck.
- Law enforcement found a jacket in the backseat on the passenger side of the truck. Inside the jacket pocket was a blue rubber glove containing two bags of a crystal-like substance and a small black digital scale.
- Law enforcement also found a smaller bag of a crystal-like substance under the driver’s seat and a blue scale in the front driver’s-side compartment.
- An investigator testified that the scales located in the Avalanche could be used both for narcotic use and sales.
- The substances in two of the three bags tested positive for methamphetamine. The weight of the two tested bags totaled over 29 grams, with the smaller of the tested bags weighing over five grams.

The second step of our circumstantial-evidence review requires us to “analyze whether the circumstances proved are consistent with the hypothesis that [Thompson] is guilty and inconsistent with any rational hypothesis other than guilt.” *Gillelyen*, 993 N.W.2d 266, 275 (quotations omitted). Thompson argues that these circumstances fail to show that he possessed the methamphetamine found in the jacket.

The parties agree that Thompson did not actually possess the methamphetamine found in the jacket; thus, the state was required to prove that Thompson constructively possessed the methamphetamine. Constructive possession may be proved by showing that (1) “the police found the [contraband] in a place under the defendant’s exclusive control to which other people normally did not have access” or (2) if the police found the item in a place to which others had access, that there is a strong probability that, at the time, the defendant was consciously exercising dominion and control over the contraband. *Harris*, 895 N.W.2d at 601. “We look to the totality of the circumstances in assessing whether or not constructive possession has been proved.” *State v. Denison*, 607 N.W.2d 796, 800 (Minn. App. 2000), *rev. denied* (Minn. June 13, 2000).

Thompson argues that there is a reasonable hypothesis from the circumstances proved that he did not constructively possess the jacket because it belonged to T.S. The state contends that the circumstances proved show that Thompson and T.S. at least jointly exercised dominion and control over the methamphetamine in the jacket. *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000) (“[C]onstructive possession need not be exclusive, but may be shared.”), *rev. denied* (Minn. Jan. 16, 2001). The state points to the following evidence to support its joint-construction possession theory: (1) the truck

belonged to Thompson; (2) Thompson was seated in the front passenger seat; (3) Thompson was the last person inside the truck; (4) when law enforcement approached Thompson he immediately cooperated, but when he was removed from the truck he asked if he could close the window; (5) Thompson was found with needles in his pocket; and (6) the methamphetamine was in the pocket of a jacket found in the back seat, directly behind where Thompson was sitting.

As for Thompson's ownership of the truck, the supreme court has held that it is unreasonable to "automatically infer from the mere fact that [contraband is] found in the automobile that the [contraband] belonged to [the] defendant" when a defendant did not have exclusive possession of the vehicle. *State v. Florine*, 226 N.W.2d 609, 611 (Minn. 1975). And we have concluded that "the state must prove that a defendant exercised dominion and control over the *contraband*, not merely the place where the contraband is located." *Sam*, 859 N.W.2d at 834 (emphasis in original). Thus, the mere fact that Thompson owned the truck is not sufficient to show that he exercised dominion and control over the methamphetamine found in the jacket.

For the state's argument about guilt being inferred from Thompson sitting in the truck, being the last person in the truck, and the jacket being found immediately behind Thompson, the evidence established that both Thompson and T.S. were accessing the truck. The circumstances also proved that Thompson complied with law enforcement whereas T.S. was noncompliant. And while Thompson's proximity to the jacket "is an important consideration in assessing constructive possession," *Smith*, 619 N.W.2d at 770, physical

proximity to contraband, without more, is not enough to sustain a conviction based on circumstantial evidence of constructive possession. *See Sam*, 859 N.W.2d at 835-36.

The state also points to the needles in Thompson's pocket. But the needles do not indicate that Thompson possessed the methamphetamine in the jacket.

The evidence at trial provided no information about whether the jacket belonged to T.S. or Thompson. "While the [s]tate need not demonstrate that the circumstantial evidence excludes *all* inferences other than guilt, all reasonable inferences from the circumstances proved must be consistent with guilt." *Id.* at 836 (emphasis in original). From the circumstances proved, there is a reasonable inference that is inconsistent with the finding that Thompson constructively possessed the methamphetamine found in the jacket pocket, which is that the jacket and drugs belonged exclusively to T.S. Based upon the circumstantial evidence standard of review, we conclude that the state did not meet its burden of proving constructive possession.¹

We, therefore, reverse Thompson's convictions for first- and second-degree controlled-substance crimes because there was insufficient evidence for the jury to convict Thompson. We remand for the district court to vacate those convictions and to resentence Thompson consistent with this opinion.

¹ The state did not use evidence of the third bag of a crystal-like substance that law enforcement found under the driver's seat. We offer no opinion as to whether the state presented sufficient evidence to prove that Thompson constructively possessed that bag.

II. Sufficient evidence supports the jury’s determination that Thompson knew or had reason to know that the bikes were stolen.

The jury also convicted Thompson of receiving stolen property exceeding \$5,000. *See* Minn. Stat. § 609.53, subd. 1 (2022); Minn. Stat. § 609.52, subd. 3(2) (2022) (making receiving stolen property a felony if the value of the property exceeds \$5,000). Thompson does not contest that he possessed the bikes. Instead, he argues that the state did not prove that he knew or should have known that the bikes were stolen. “Knowledge that the property was stolen may be proven by circumstantial evidence.” *State v. Peterson*, 375 N.W.2d 93, 95 (Minn. App. 1985).

Again, our circumstantial-evidence review begins by identifying the circumstances proved. *Gilleylen*, 993 N.W.2d at 275. The state proved the following:

- Five high-end bikes were stolen from C.C.’s residence on or about October 1, 2023.
- The aggregate purchase price of the stolen bikes was over \$14,000.
- Law enforcement had been conducting ongoing surveillance of T.S. and Thompson.
- Law enforcement observed Thompson and T.S. at a storage unit that was rented to Jason Brunnings—a known alias of T.S. T.S. stated that the storage unit belonged to both T.S. and Thompson.
- Several unique bikes were observed near the storage unit and law enforcement saw Thompson riding a bike.
- A Chevrolet Avalanche registered to Thompson was parked in front of the storage unit.
- Several of the bikes recovered from the Avalanche and the storage unit were identified as stolen from C.C.’s residence.

Moving to the second step of the circumstantial-evidence review, we “analyze whether the circumstances proved are consistent with the hypothesis that [Thompson] is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* (quotations omitted). Here, the circumstances proved do not support a rational hypothesis that Thompson lacked knowledge that the bikes were stolen. The circumstances proved include that one of the stolen bikes was found hidden in the bed of Thompson’s truck. The other two bikes were located in an area near Thompson’s truck and the storage unit. Thompson was observed riding one of the bikes and law enforcement watched Thompson and T.S. moving back and forth from the truck to the storage unit. In addition, Thompson’s unexplained possession of the stolen bikes within a relatively short time after the theft occurred is sufficient to support a conviction. *See State v. Hager*, 727 N.W.2d 668, 677-78 (Minn. App. 2007) (“An individual’s unexplained possession of stolen property within a reasonable time after a . . . theft will in and of itself be sufficient to sustain a conviction.”) (quotation omitted).

Thompson points to five circumstances that he contends demonstrate that he did not know the bikes were stolen: (1) the bikes were being stored at T.S.’s storage unit and no evidence shows that Thompson knew or should have known T.S. kept stolen items at the storage unit; (2) he would not have ridden a bike he knew to be stolen in public; (3) he did not pawn the bikes, inconsistent with his past behavior of pawning stolen items; (4) there was no evidence that Thompson was present when the bikes were stolen from C.C.’s residence; and (5) his lack of knowledge about the stolen nature of the bikes would explain why he cooperated with law enforcement. We are not persuaded.

The circumstances highlighted by Thompson are speculative, unsupported by the evidence, and are inconsistent with the jury’s verdict. *See Al-Naseer*, 788 N.W.2d at 480 (stating that a defendant must provide more than conjecture or speculation); *State v. Lahue*, 585 N.W.2d 785, 789 (Minn. 1998) (stating that an appellate court “will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture”); *Gilleylen*, 993 N.W.2d at 275 (noting the circumstances proved must be a “subset of facts that is consistent with the jury’s verdict” and directing appellate courts to “disregard evidence that is inconsistent with the jury’s verdict”) (quotations omitted). And Thompson cannot rely on the absence of evidence—his possible lack of awareness that stolen items were kept in the storage unit, not pawning the bikes, or not being present when the bikes were stolen—to demonstrate a rational hypothesis of innocence. *See State v. German*, 929 N.W.2d 466, 473-74 (Minn. App. 2019) (“[T]he absence of evidence in the record regarding a certain circumstance does not constitute a circumstance proved.”). Instead, the circumstances proved support no reasonable inference other than that Thompson knew or had reason to know that the bikes were stolen. Thus, we conclude that the evidence is sufficient to support Thompson’s conviction of receiving stolen property.

Affirmed in part, reversed in part, and remanded.