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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A24-1087**

State of Minnesota,  
Respondent,

vs.

Kacey Emmanuel Kamara,  
Appellant.

**Filed September 28, 2026  
Affirmed  
Bond, Judge**

Olmsted County District Court  
File No. 55-CR-22-4345

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

Michael T. Walters, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Adam Lozeau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Frisch, Chief Judge; and Bond, Judge.

**NONPRECEDENTIAL OPINION**

**BOND, Judge**

On remand from the Minnesota Supreme Court, appellant argues there was insufficient evidence to prove beyond a reasonable doubt that he constructively possessed a firearm and ammunition found in his fiancée's apartment where he frequently stayed.

We conclude that the circumstantial evidence is consistent with appellant's guilt and inconsistent with any rational hypothesis except that of guilt. Thus, we affirm.

## **FACTS**

Respondent State of Minnesota charged appellant Kacey Emmanuel Kamara with unlawful possession of a firearm or ammunition based on evidence discovered in Kamara's fiancée's apartment on July 7, 2022. Minn. Stat. § 624.713, subd. 1(2) (2020). The state also charged Kamara with second-degree assault with a dangerous weapon, aggravated first-degree witness tampering, and drive-by shooting for conduct alleged to have occurred on June 3, 2022. Minn. Stat. §§ 609.222, subd. 1, .498, subd. 1b(a)(4) (2020), .66, subd. 1e(a)(3) (Supp. 2021). Kamara waived his right to a jury trial and the case proceeded to a court trial, after which the district court found Kamara guilty of unlawful possession of a firearm or ammunition and not guilty of the other charges. The following summarizes the evidence received at trial and the district court's factual findings, as relevant to this appeal.

On July 7, 2022, police executed a search warrant at the apartment of M.T., who is Kamara's fiancée. M.T. lived in the apartment with her two children, whom she shares with Kamara. Kamara was not on the lease for the apartment, but he spent most of his time at M.T.'s apartment, frequently stayed overnight, and referred to it as "home" and "my apartment."

Kamara and the children were in the apartment when police executed the search warrant. In a bedroom that appeared to be occupied by male and female adults, officers found a Taurus-brand nine-millimeter handgun on top of a shelving unit. A magazine

containing nine-millimeter ammunition was next to the gun. Officers also found 70 rounds of nine-millimeter ammunition in a box in the bedroom closet. There was a black backpack on the bedroom floor that contained 14 20-gauge shotgun shells and various documents, including a 2019 medical document bearing Kamara's name. The officer who found the backpack testified that other documents inside the backpack may have listed the name of either M.T. or M.T. and Kamara's son.

M.T. testified that she owned the firearm and that she typically kept it in a safe with a digital thumb-print lock in the bedroom, but she forgot to do so on July 7 because it was her first day at a new job. Kamara testified that he knew that M.T. owned a gun and knew where she kept it but he denied that he ever handled or possessed it.

A scientist from the Minnesota Bureau of Criminal Apprehension (BCA) testified that the firearm contained a mixture of DNA from four individuals and that Kamara could not be excluded as a contributor to the mixture. The scientist explained that "[t]he probability of observing the profile would be greater than a hundred billion times more likely if it was a mixture of [Kamara] and three unknown unidentified individuals versus a mixture of four unknown unidentified individuals" and that the DNA attributable to Kamara made up about 49 and one-half percent of the mixture. On cross-examination, the scientist acknowledged the limitations of the DNA evidence, including that the results presumed that the DNA contributors were "unrelated" individuals.

The district court found Kamara guilty of unlawfully possessing the firearm, the ammunition in the bedroom closet, and the ammunition in the black backpack in the bedroom. In its factual findings, the district court noted M.T.'s testimony that she owned

the firearm and forgot to put it in the safe on July 7 but did not expressly find M.T. either credible or not credible. The court found that Kamara’s testimony “regarding his knowledge of the guns and ammunition in M.T.’s apartment” not credible and found that he regularly stayed overnight at the apartment, that male clothing was in the bedroom and documents with his name were in the backpack, and that the firearm and ammunition were open and accessible in the bedroom. Other than a notation that it had received testimony from the BCA scientist, among other witnesses, the district court’s order does not include any factual findings or credibility determinations about the DNA evidence and the scientist’s testimony.

Kamara appealed, challenging the sufficiency of the evidence proving that he constructively possessed the firearm and ammunition. We affirmed. *State v. Kamara*, No. A24-1087, 2025 WL 2030048, at \*5 (Minn. App. July 21, 2025), *vacated and remanded mem.* (Minn. Apr. 29, 2026). The Minnesota Supreme Court granted Kamara’s petition for further review and stayed proceedings pending final disposition in *State v. Firkus*, 31 N.W.3d 468 (Minn. 2026). After the supreme court filed its decision in *Firkus*, the supreme court lifted the stay, vacated this court’s decision, and remanded the matter for reconsideration in light of *Firkus*. We reinstated the appeal and ordered supplemental briefing on the impact of *Firkus*.

## DECISION

Due process requires the state to prove each element of a crime beyond a reasonable doubt. *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023); *see* U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7. To convict Kamara of unlawful possession of a firearm

or ammunition under Minn. Stat. § 624.713, subd. 1(2), the state had to prove that Kamara knowingly possessed a firearm or ammunition. Minn. Stat. § 624.713, subd. 1(2); *see State v. Lyons*, 997 N.W.2d 771, 774 (Minn. App. 2023), *rev. denied* (Minn. Feb. 28, 2024).

Kamara argues that his conviction should be reversed because the state's evidence fails to prove beyond a reasonable doubt that he possessed the firearm or ammunition. "Possession may be proved through evidence of actual or constructive possession." *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). Actual possession is proved by showing an individual physically possessed an item. *State v. Florine*, 226 N.W.2d 609, 610 (Minn. 1975). Constructive possession may be proved in one of two ways: (1) by showing that "the police found the item in a place under the defendant's exclusive control to which other people normally did not have access" or (2) by showing "that there is a strong probability (inferable from other evidence) that[,] at the time[,] the defendant was consciously or knowingly exercising dominion and control over [the item]." *Harris*, 895 N.W.2d at 601. Two or more people may jointly possess an item. *Id.*

We begin with the standard of review. Appellate courts "use 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). "The relevant standard of review depends on whether the factfinder (the district court here) reached its conclusion of law based on direct or circumstantial evidence." *State v. Petersen*, 910 N.W.2d 1, 6 (Minn. 2018). Direct evidence is based on personal knowledge or observation that proves a fact without any inference or presumption, while circumstantial evidence requires an inferential step to prove a fact. *Harris*, 895 N.W.2d at 599.

The parties dispute the standard that applies to our review of the evidence proving the possession element. Kamara argues that we should apply the circumstantial-evidence standard of review to determine whether the evidence is sufficient to prove that he constructively possessed the firearm and ammunition in M.T.'s apartment on July 7. While seeming to acknowledge the circumstantial-evidence standard might apply, the state urges us to apply the direct-evidence standard of review, pointing to testimony from witnesses that Kamara was in actual possession of a gun during the purported events of June 3. On this point, we agree with Kamara.

The district court found the witnesses' testimony as to the "specific events or details" of June 3, including testimony regarding Kamara's alleged use of a firearm that day, not credible. The district court acquitted Kamara of the charges based on the events of June 3 and found him guilty of constructively possessing the firearm and ammunition in the apartment on July 7. Therefore, the question before us is whether the state proved beyond a reasonable doubt that Kamara possessed the firearm or ammunition on July 7. Because Kamara was not in actual, physical possession of the firearm or ammunition when police found them in the apartment, the state had to prove that Kamara was constructively possessing those items. *See Harris*, 895 N.W.2d at 601. Accordingly, the circumstantial-evidence standard of review applies to our consideration of whether the evidence proves beyond a reasonable doubt that there is a strong probability, inferable from other evidence, that Kamara was consciously exercising dominion and control over the firearm or ammunition at the time police found them in the apartment. *See id.*

Under the two-step circumstantial-evidence standard of review, we first identify the circumstances proved. *Id.* In doing so, we “‘winnow down the evidence presented at trial by resolving all questions of fact in favor of the . . . verdict,’ which results in ‘a subset of facts that constitute the circumstances proved.’” *Firkus*, 31 N.W.3d at 478 (quoting *Harris*, 895 N.W.2d at 600). Identifying the circumstances proved in this manner “protects the well-established legal principle that the [factfinder] is in a unique position to determine the credibility of the witnesses and weigh the evidence before it.” *Id.* at 479 (quotation omitted). We do not re-weigh the evidence or “sit . . . as a 13th juror.” *Id.* (quoting *State v. Reek*, 942 N.W.2d 148, 166 (Minn. 2020)).

At the second step, we consider “whether the reasonable inferences that can be drawn from the circumstances proved, when viewed as a whole and not as discrete, isolated facts, ‘are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.’” *Id.* at 478 (quoting *State v. Smith*, 9 N.W.3d 543, 565 (Minn. 2024)). At this stage, we independently review the reasonableness of inferences and do not defer to the factfinder. *Id.* at 483 (citing *State v. Isaac*, 9 N.W.3d 812, 818 (Minn. 2024)). We will not reverse a conviction “based on mere conjecture.” *Id.* (quoting *State v. Tscheu*, 758 N.W.2d 849, 861 (Minn. 2008)). However, “[i]f the circumstances proved when viewed as a whole, support a reasonable inference ‘that is inconsistent with guilt, the evidence is not sufficient to support the conviction and we must reverse.’” *Id.* (quoting *Isaac*, 9 N.W.3d at 818).

### **Circumstances Proved**

Winnowing down the evidence presented at trial by resolving all questions of fact in favor of the factfinder's verdict, *Firkus*, 31 N.W.3d at 484, the relevant circumstances proved are as follows.

Police executed a search warrant at the apartment of M.T., who is Kamara's fiancée. Kamara and the children he shares with M.T. were in the apartment when officers arrived. M.T. is the only person listed on the apartment's lease, but Kamara refers to the apartment as "home" and "his apartment," and spent substantial time there, including frequent overnight stays.

Police discovered a nine-millimeter Taurus handgun and loaded magazine on top of a shelving unit in a bedroom that, based on the clothing in the room, appeared to be occupied by an adult male and female. Kamara knew that M.T. owned a gun and knew where she kept it. In addition to the firearm and ammunition on the shelf, police found nine-millimeter ammunition in a cardboard box in the bedroom closet and 20-gauge shotgun shells in a black backpack on the bedroom floor. The backpack contained a 2019 medical document naming Kamara as the patient, as well as other documents that may have listed the names of Kamara's family members. Kamara was previously convicted for falsely reporting a crime to police in July 2022 arising out of an incident during which Kamara accidentally shot himself in the foot with a nine-millimeter Taurus gun.

The parties dispute whether two additional pieces of evidence are circumstances proved: M.T.'s testimony that she owned the gun and normally kept it locked in a gun safe

and the BCA scientist's testimony about the DNA mixture obtained from the firearm and its statistical probability.

Turning first to M.T.'s testimony, Kamara contends that the district court's inclusion of her testimony in its factual findings shows that the court (here, the factfinder) did not disregard or discredit the testimony. And Kamara maintains that, because a person can jointly possess an item with another person, M.T.'s ownership of the firearm was not a factual question that the factfinder had to resolve.

The district court's findings of fact include that "M.T. claimed ownership" of the firearm and that, "according to M.T., she typically kept the firearm in a gun safe under her bed. She testified that she forgot to put it into the safe [on July 7]." The court further determined that, "regardless of whether the firearm was properly secured . . . there were boxes of ammunition open and accessible in the closet in the room in which Kamara slept." Because the district court included M.T.'s testimony in its factual findings on the possession element but did not make an express credibility determination regarding the truthfulness of that testimony, it is difficult to discern on this record whether M.T.'s testimony that she owned the firearm and normally kept it secured in a gun safe is part of the "subset of facts that constitute the circumstances proved." *Firkus*, 31 N.W.3d at 478. Because it does not affect our ultimate conclusion, we assume without deciding that it is a circumstance proved that M.T. was the firearm's owner and that the firearm was normally secured in the safe.

As to the DNA evidence, Kamara argues that it is not a circumstance proved because "the factfinder did not credit that evidence and gave it no weight." Kamara highlights

*Firkus*'s command that a reviewing court's determination of the circumstances proved must preserve the factfinder's "unique position to determine the credibility of the witnesses and weigh the evidence before it." *Id.* at 479, 480, 482, 489. The state acknowledges that the district court's written findings "are silent with respect to the sworn testimony" of the BCA scientist. But the state maintains that the findings do not discredit the BCA scientist's testimony or his report, which was received as an exhibit at trial, and the absence of any reference to the DNA evidence does not mean we should exclude it from the circumstances proved.

For two reasons, we conclude that the BCA scientist's testimony about the DNA evidence is a circumstance proved. First, we disagree with Kamara that the absence of any reference to the BCA scientist's testimony in the district court's factual findings necessarily means that the evidence is not part of the circumstances proved under *Firkus*. After a court trial in a felony or gross-misdemeanor case, a district court must make a general finding of guilt and written findings of the essential facts. Minn. R. Crim. P. 26.01, subd. 2(a)-(b). "If the court omits a finding on any issue of fact essential to sustain the general finding, it must be deemed to have made a finding consistent with the general finding." *Id.*, subd. 2(e). The purpose of the written-findings requirement is "to aid the appellate court in its review of [a] conviction resulting from a nonjury trial." *State v. Scarver*, 458 N.W.2d 167, 168 (Minn. App. 1990). A district court sitting as factfinder in a court trial thus is not required to make specific factual findings on all the evidence received at trial that it considers probative of guilt. We discern nothing in either rule 26.01 or supreme court caselaw instructing that a district court's silence, in and of itself, on a particular piece of

evidence necessarily excludes that evidence from the circumstances proved for purposes of the circumstantial-evidence standard of review.

Second, in undertaking our task of determining the circumstances proved, “we accept the circumstances proved as determined *by the verdict*.” *State v. McInnis*, 962 N.W.2d 874, 891 n.6 (Minn. 2021); *see Firkus*, 31 N.W.2d at 478 (stating that, when determining the circumstances proved, the reviewing court must “winnow down the evidence presented at trial by resolving all questions of fact in favor of the . . . verdict” (quoting *Harris*, 895 N.W.2d at 600)). In other words, a reviewing court ascertains the circumstance proved based on the entire record of the evidence presented at trial and is not necessarily limited to considering the evidence identified in the district court’s factual findings. *See State v. Hendrickson*, No. A14-1298, 2015 WL 1514177, at \*3 n.4 (Minn. App. Apr. 6, 2015) (affirming a felony terroristic-threats conviction despite the district court’s limited written findings because “[w]e determine the circumstances proved based on the entire record, and we are not limited to considering only those circumstances specifically identified in the district court’s findings of fact”).<sup>1</sup>

The district court here received the scientist’s testimony about the DNA evidence on the firearm. In its written findings, the district court did not affirmatively discredit the scientist’s testimony, as it did with testimony from other witnesses, or expressly state that it assigned no weight to the DNA evidence. We acknowledge that the factfinder may have

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<sup>1</sup> We cite nonprecedential opinions of this court for persuasive value only. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions . . . are not binding authority. . . but nonprecedential opinions may be cited as persuasive authority.”).

determined that the DNA evidence had limited probative value to the question of whether Kamara constructively possessed the firearm and ammunition on July 7. But, on this record, we cannot conclude that the DNA evidence should be excluded from the circumstances proved because it had *no* probative value. *Cf. Firkus*, 31 N.W.3d at 488 (determining that FBI’s digital model showing bullet trajectories was not a circumstance proved because, given the FBI specialist’s testimony that “the presence or absence of an intruder had no effect on the calculations, and therefore the trajectory calculations are neutral[,]” the digital model “provided no probative evidence on whether there was an intruder”). Viewing the evidence presented at trial in the light favorable to the verdict and preserving the factfinder’s unique role “to assess witness credibility and weigh the evidence,” we conclude that the BCA scientist’s testimony is a circumstance proved in this case. *Id.* at 480.

### **Reasonable Inferences From the Circumstances Proved**

Having identified the circumstances proved, we next “consider whether the reasonable inferences that can be drawn from the circumstances proved, when viewed as a whole and not as discrete, isolated facts, are consistent with the hypothesis that [Kamara] is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* at 483. Kamara does not dispute—and we agree—that it is reasonable to infer from the circumstances proved that he constructively possessed the firearm and ammunition. But Kamara argues that it is equally reasonable to infer from the circumstances proved that M.T. solely possessed the firearm on the shelf, the ammunition in the closet, and the ammunition in the black backpack.



*Firearm and Ammunition in the Closet*

Kamara contends that the district court misapplied the law on constructive possession and convicted him based solely on his “access” and “proximity” to the firearm and the ammunition in the closet. As we explained, constructive possession requires proof “that there is a strong probability (inferable from other evidence) that[,] at the time[,] the defendant was consciously or knowingly exercising dominion and control over [the item].” *Harris*, 895 N.W.2d at 601. “To establish that a defendant was consciously or knowingly exercising dominion and control over a firearm at the time in question, the [s]tate must prove more than the defendant’s mere proximity to the firearm.” *Id.* Accordingly, a defendant’s “ease of access to a firearm is but one factor relevant to establishing constructive possession.” *Id.* at 602 (quotation omitted).

Kamara relies on *State v. Sam*, in which we concluded that the circumstantial evidence failed to prove that the defendant possessed drugs found in the center console of a car he was driving. 859 N.W.2d 825, 828 (Minn. App. 2015). The car was borrowed and a passenger was in the front seat. *Id.* We reversed the conviction, concluding that the circumstances proved supported reasonable inferences that either the car’s owner or the passenger was exercising sole dominion and control over the items in the console. *Id.* at 835-36.

Unlike *Sam*, the circumstances proved in this case establish more than Kamara’s mere proximity and access to the firearm and the ammunition in the closet. Here, the circumstances proved include that Kamara frequently stayed at the apartment and considered it home; Kamara and the children were in the apartment when police arrived to

execute the search warrant; the gun and ammunition were in multiple unsecured locations in a bedroom containing adult male and female clothing; Kamara's personal documents were in the backpack in the bedroom; Kamara could not be excluded as a contributor to the DNA mixture on the gun; and Kamara had a previous conviction involving use of a Taurus nine-millimeter firearm.

As Kamara recognizes, "two or more people can constructively possess an item jointly." *Harris*, 895 N.W.2d at 603 n.9. Viewed as a whole, the circumstances proved are inconsistent with any reasonable inference that M.T. was solely exercising dominion and control over the firearm and ammunition in the closet. *See State v. Lorenz*, 368 N.W.2d 284, 287-88 (Minn. 1985) (concluding that evidence was sufficient to infer that the defendant jointly possessed drugs found in the defendant's bedroom with the homeowner); *State v. Wiley*, 205 N.W.2d 667, 675-76 (Minn. 1973) (concluding that evidence was sufficient to prove defendant constructively possessed drugs that were found next to items belonging to defendant in a house where "defendant lived or, at the very least, spent much time in").

Kamara also argues that the DNA evidence found on the gun could have come from one of his blood relatives or been transferred via M.T. While the BCA scientist testified that, as a general matter, DNA can be transferred from one person to another, there was no evidence presented at trial that the DNA attributable to Kamara was transferred from M.T. or from another person onto the gun. *See State v. Segura*, 2 N.W.3d 142, 158 (Minn. 2024) (concluding that "[t]he absence of evidence in the record regarding certain circumstances does not constitute a circumstance proved from which reasonable inferences may be

drawn”). We will not reverse a conviction “based on mere conjecture.” *Firkus*, 31 N.W.3d at 483 (quoting *Tscheu*, 758 N.W.2d at 861).

Furthermore, we observe that the state needed to prove that Kamara knowingly possessed the firearm *or* the ammunition. Minn. Stat. § 624.713, subd. 1(2). Accordingly, even if we were to accept Kamara’s argument that the alleged infirmities in the DNA evidence support a reasonable inference that M.T. was solely in constructive possession of the firearm, the same cannot be said about the ammunition in the closet. In sum, the circumstances proved, viewed as a whole, do not support Kamara’s alternative hypothesis that M.T. was the sole person in constructive possession of the firearm and the ammunition found in the bedroom closet on July 7. Viewed in their entirety, the circumstances proved are consistent with the rational hypothesis that Kamara was at least jointly exercising dominion and control over the firearm and the ammunition in the closet and inconsistent with any rational hypothesis other than guilt.

#### *Ammunition in the Black Backpack*

Kamara argues that the circumstances proved are consistent with the rational hypothesis that M.T. solely possessed the black backpack and the ammunition within it because the backpack appeared to contain documents bearing other peoples’ names and the medical document listing Kamara’s name was from 2019. We disagree. The presence of unspecified documents in the backpack apparently bearing the names of other family members does not make an inference that Kamara was jointly possessing the ammunition in the backpack unreasonable. *See Harris*, 895 N.W.2d at 601 (stating that constructive possession may be found jointly with another person). And, as we have explained, when

determining the reasonableness of inferences, we must consider the circumstances proved not in isolation, but as a whole. *Firkus*, 31 N.W.3d at 478. Kamara's alternative hypothesis that M.T. was in sole constructive possession of the ammunition in the backpack is not reasonable considering the circumstances proved as a whole, which include Kamara's frequent stays at the apartment, male clothing in the bedroom, and Kamara's medical record in the backpack.

Viewed in their entirety, the circumstances proved are consistent with the rational hypothesis that Kamara was at least jointly exercising dominion and control over the firearm and ammunition in the apartment and inconsistent with any rational hypothesis other than guilt. The evidence is therefore sufficient to sustain Kamara's conviction.

**Affirmed.**