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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 July 21, 2025
Affirmed
Kirk, Judge***

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

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

Mark A. Ostrem, 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; Slieter, Judge; and Kirk, Judge.

NONPRECEDENTIAL OPINION

KIRK, Judge

In this direct appeal from the judgment of conviction for unlawful possession of a firearm, appellant argues that the evidence was insufficient to prove beyond a reasonable

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

doubt that he possessed a firearm and ammunition found in his fiancée's apartment. Because the evidence is sufficient to prove that appellant possessed the firearm and ammunition, we affirm.

FACTS

In July 2022, respondent State of Minnesota charged appellant Kacey Emmanuel Kamara with unlawful possession of a firearm in violation of Minn. Stat. § 624.713, subd. 1(2) (2020). The charge resulted from a search warrant officers with the Rochester Police Department executed at an apartment in Rochester on July 7, 2022. The apartment was rented by M.T., Kamara's fiancée. M.T. resided there with her two children, whom she shares with Kamara. Kamara was not on the lease for the apartment and had his own separate apartment, but both he and M.T. testified that he spent most days at M.T.'s apartment and frequently stayed overnight there to spend time with her and the children. Throughout his testimony, Kamara referred to this apartment as "home" or "my apartment."

When officers executed the search warrant, M.T. was not home and Kamara was in the apartment with the children. In a bedroom in the apartment that appeared to be occupied by both male and female adults, officers found a Taurus brand nine-millimeter handgun and a loaded magazine of nine-millimeter ammunition on top of a bookshelf. Officers also found seventy rounds of nine-millimeter ammunition in the closet of the bedroom and fourteen 20-gauge shotgun shells in a black backpack within the bedroom.

The black backpack also contained medical documents, some identifying only Kamara as the patient and some identifying either M.T. or Kamara's son.¹

The matter proceeded to a bench trial, at which M.T. testified that she is the sole owner of the handgun found in the bedroom and that she typically locks the gun in a safe but forgot to do so that day. The state introduced evidence that a mixture of DNA from four individuals was found on the handgun and that Kamara could not be excluded as a possible contributor to the mixture. The scientist who conducted the DNA testing testified 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 Kamara's DNA made up about 49-and-a-half percent of the mixture. During cross-examination, the scientist acknowledged that the results of the testing assumed that the contributors of DNA were "unrelated" individuals.

The district court found Kamara guilty of unlawful possession. The court concluded that Kamara "constructively possessed a firearm, ammunition in a cardboard box in a closet, and ammunition within the black backpack" while being ineligible to possess them.

¹ The officer who found the backpack testified that he found "miscellaneous documents with [Kamara's] name on it, along with [Kamara's son's]" or "maybe [Kamara's] wife or girlfriend, [M.T.]" In terms of documentary evidence of these materials, the state introduced only a photo of the medical document naming solely Kamara. The foregoing testimony by the officer who found the backpack is the only point in the record when other documents in the backpack are mentioned. It is unclear from the record whose names were on the other documents.

Kamara appeals, arguing that the circumstantial evidence is insufficient to prove constructive possession.

DECISION

In a criminal prosecution, due process requires that the state prove every fact material to the crime charged beyond a reasonable doubt. *State v. Hage*, 595 N.W.2d 200, 204 (Minn. 1999); *see* U.S. Const. amend. XIV; Minn. Const. art. I, § 7. In determining whether the evidence was sufficient to support a conviction, we “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the [fact-finder] to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense 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 the jury believed the state’s witnesses and disbelieved contrary evidence. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989); *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We “review criminal bench trials the same as jury trials.” *State v. Holliday*, 745 N.W.2d 556, 562 (Minn. 2008) (quotation omitted).

Kamara was convicted of unlawful possession under Minn. Stat. § 624.713, subd. 1(2). To prove Kamara guilty of this crime, the state needed to prove that Kamara was ineligible to possess a firearm or ammunition on the dates alleged and that he knowingly possessed a firearm or ammunition on those dates. Minn. Stat. § 624.713, subd. 1(2); *State v. Lyons*, 997 N.W.2d 771, 774 (Minn. App. 2023), *rev. denied* (Minn. Feb. 28, 2024). Kamara does not dispute that he was ineligible on the dates alleged. But he disputes that

the state proved beyond a reasonable doubt that he knowingly possessed the handgun and 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 refers to “direct physical control” over an item. *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016) (quotation omitted). If the state cannot prove actual possession, it may prove constructive possession in one of two ways. *State v. Salyers*, 858 N.W.2d 156, 159 (Minn. 2015). The state can prove constructive possession by showing that police found the item in a place that was under the defendant’s exclusive control to which other people did not normally have access. *State v. Florine*, 226 N.W.2d 609, 611 (Minn. 1975). Alternatively, if police found the item in a place to which others did have access, the state must show a strong probability, inferable from other evidence, that the defendant was consciously or knowingly exercising dominion or control over the item at the time. *Id.* Additionally, “[a] defendant may possess an item jointly with another person.” *Harris*, 895 N.W.2d at 601.

In a sufficiency-of-the-evidence challenge, our standard of review differs depending on whether the conviction relies on direct or circumstantial evidence. *State v. Hokanson*, 821 N.W.2d 340, 353 (Minn. 2012). Circumstantial evidence is “evidence from which the fact-finder can infer whether the facts in dispute existed or did not exist.” *Id.* at 354 n.3 (quotation omitted). Because Kamara’s conviction rests on constructive possession, it is necessarily proved by inference, so the circumstantial-evidence standard applies. Both

parties agree that the circumstantial-evidence standard applies.² When a conviction is based on circumstantial evidence, we apply a two-step standard of review. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013).

A. Circumstances Proved

Under the circumstantial-evidence standard, our first step is to identify the circumstances proved. *Id.* at 598. In doing so, “we defer to the jury’s acceptance of the proof of [the] circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State.” *Id.* at 598-99 (quotation omitted). This means that “we consider only those circumstances that are consistent with the verdict.” *Id.*

The circumstances proved consist of the following. On July 7, 2022, officers with the Rochester Police Department executed a search warrant at an apartment in Rochester. M.T. was the only renter on the lease, but Kamara spent most of his time at the apartment and often stayed overnight. Kamara and the children were home when officers executed the search warrant; M.T. was not home. Officers found a nine-millimeter Taurus brand handgun and nine-millimeter ammunition on a bookshelf in a bedroom in the apartment. They also found more nine-millimeter ammunition in the closet of the bedroom. Officers found a black backpack in the bedroom that contained fourteen 20-gauge shotgun shells

² Although the state’s brief follows the circumstantial-evidence framework, it also argues that we should uphold Kamara’s conviction based on other evidence in the case that it characterizes as “direct evidence” of Kamara possessing a firearm on a day other than July 7. Because we conclude that the evidence in the record that law enforcement observed and seized in executing the search warrant on July 7 is sufficient to sustain Kamara’s conviction, we need not consider the other evidence the state identifies in its brief as part of the circumstances proved.

alongside several medical documents, at least one of which identified Kamara as the patient. The bedroom contained clothing typically associated with both males and females.

The handgun that officers found in the bedroom contained a mixture of four individuals' DNA on it. Kamara could not be excluded as a contributor to, and his DNA consisted of nearly half of, that mixture. The probability of the DNA testing returning that specific mixture is one hundred billion times more likely if Kamara and three unknown individuals contributed to it than if four unknown individuals contributed and not Kamara.

B. Reasonable Inferences

Having identified the circumstances proved, our “second step is to determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* at 599 (quotation omitted). In this step, we “examine independently the reasonableness of all inferences that might be drawn from the circumstances proved, [including] inferences consistent with a hypothesis other than guilt.” *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010) (quotation omitted). “We give no deference to the fact-finder’s choice between reasonable inferences.” *Silvernail*, 831 N.W.2d at 599 (quotation omitted). “Circumstantial 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 beyond a reasonable doubt any reasonable inference other than guilt.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted).

Kamara does not argue that the circumstances proved are inconsistent with guilt. Rather, he argues that the circumstances proved fail to disprove any rational hypothesis

except that of guilt. He asserts this argument for both (i) the gun and ammunition found in the bedroom and closet, and (ii) the ammunition found in the backpack.

1. Handgun and Ammunition in Bedroom and Closet

First, Kamara argues that the circumstances proved are not consistent with the rational hypothesis that M.T. solely possessed the handgun and ammunition found on the bookshelf in the bedroom and in the closet. Kamara contends that the district court erroneously reasoned that because Kamara had access to the handgun and ammunition, he constructively possessed it. He challenges the reliability of the state's DNA evidence because it did not include a major profile for Kamara, which he argues supports the possibility that Kamara's DNA could have been on the handgun via DNA transfer. He also argues that the DNA evidence is unreliable because the forensic testing did not consider that the mixture could have included Kamara's blood relatives spending time in M.T.'s home, including Kamara's brother or son.

It is correct that "the State must prove more than the defendant's mere proximity to the firearm" to prove constructive possession, and that ease of access to the firearm is not the "sole factor" relevant to constructive possession. *Harris*, 895 N.W.2d at 601-02 (quotation omitted). But the district court here did not base its verdict on Kamara merely having proximity or ease of access to the handgun in M.T.'s apartment. The district court also based its verdict on the circumstances proved of "the frequency of [Kamara's] stays" at M.T.'s apartment and the bedroom showing signs of being occupied by both Kamara and M.T. The circumstance proved that Kamara appeared to at least sometimes reside in

the bedroom in which the firearm and ammunition were found constitutes more than mere proximity or ease of access to those items.

Kamara's challenges to the DNA evidence on the handgun are unconvincing because they are not based on the circumstances proved. "[T]he absence of evidence in the record regarding a certain circumstance does not constitute a circumstance proved." *State v. German*, 929 N.W.2d 466, 473-74 (Minn. App. 2019). A rational hypothesis inconsistent with guilt cannot be based on conjecture; there must be some evidence in the record to support it. *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008).

Kamara's transfer argument is unavailing because there is no evidence in the record to support how Kamara's DNA could have been transferred onto the gun. And his argument that the analysis is unreliable because it failed to account for the fact that his brother or son could have contributed to the mixture is unavailing because there is no evidence in the record that either Kamara's brother or his son possessed or had access to the handgun or ammunition. The evidence in the record shows that Kamara's DNA made up nearly half of the mixture found on the handgun. Even without a major profile, the mixture was one hundred billion times more likely to appear in the DNA results if Kamara had been a contributor versus if he had not. This DNA evidence, in combination with the other circumstances proved, leads to no rational hypothesis other than that Kamara possessed the handgun.

Kamara likens this case to *State v. Sam*, in which we reversed a defendant's conviction of possession of methamphetamine for insufficient circumstantial evidence. 859 N.W.2d 825, 835-36 (Minn. App. 2015). In that case, the defendant had been driving

someone else's car when police pulled him over and found methamphetamine in the glove compartment. *Id.* at 834-35. We concluded that these circumstances were insufficient to prove that the defendant possessed the methamphetamine because the defendant had no possessory interest in the vehicle and no other circumstances directly tied him to the drugs. *Id.* at 835-36. Kamara argues that, like the defendant in *Sam*, the only thing tying him to the handgun and ammunition in the bedroom is his access to M.T.'s bedroom. But this comparison ignores the circumstance proved that Kamara was frequently staying at M.T.'s apartment in that bedroom, connecting him to the handgun and ammunition within it much more closely than the defendant in *Sam*.

The circumstances proved do not support Kamara's alternative hypothesis that the handgun and ammunition belonged only to M.T. Both the handgun and ammunition were found in a bedroom not occupied solely by M.T., but frequently by Kamara as well. The bedroom also contained other clothing and personal items belonging to Kamara. These circumstances do not support a rational hypothesis that Kamara had no possessory interest in the handgun or ammunition. *See State v. Wiley*, 205 N.W.2d 667, 675-76 (Minn. 1973) (affirming conviction of constructive possession of contraband where contraband was found next to items belonging to defendant in a house where "defendant lived or, at the very least, spent much time in"). The evidence is sufficient to show that Kamara at least jointly constructively possessed the handgun and ammunition found in the bedroom and closet. *See Harris*, 895 N.W.2d at 601 ("A defendant may possess an item jointly with another person.").

2. Ammunition in Backpack

Kamara next argues that the circumstances proved are not inconsistent with the rational hypothesis that M.T. solely possessed the backpack and the ammunition within it. The district court found Kamara guilty of constructively possessing the ammunition in the backpack, noting that the backpack contained “medical documents containing [Kamara’s] name.” Kamara argues this is insufficient to show constructive possession because a police officer testified that the backpack contained medical documents with M.T.’s or their son’s names on them in addition to Kamara’s.

In support of its finding of constructive possession, the district court cited *State v. Colsch*, 284 N.W.2d 839, 841 (Minn. 1979), and *Wiley*, 205 N.W.2d at 675-76. In *Colsch*, the supreme court concluded that there was sufficient evidence of constructive possession of contraband when the contraband was found in a bedroom in the defendant’s residence that “contained items of male clothing, as well as papers and a checkbook bearing defendant’s name.” 284 N.W.2d at 841. In *Wiley*, the supreme court reached the same conclusion when the contraband was found in a drawer alongside items with the male defendant’s name on them, a man’s sock, and a handkerchief, in a house where the defendant lived or spent a significant amount of time. 205 N.W.2d at 675-76.

Kamara attempts to distinguish *Colsch* by arguing that that case involved a residence occupied only by the defendant, while in this case, the apartment was also occupied by M.T. But the fact that the backpack also contained documents bearing M.T. or Kamara’s son’s name does not support Kamara’s alternate hypothesis that the backpack and its contents were owned solely by M.T. It could support a reasonable hypothesis that

Kamara and M.T. jointly possessed the backpack and its contents, but constructive possession may be found jointly with another person. *Harris*, 895 N.W.2d at 601. Kamara attempts to distinguish *Wiley* by noting that the personal items in that case were more numerous and had more identifying information than only that defendant's name, and by arguing that unlike the drawer in *Wiley*, the backpack in this case also contained documents belonging to either M.T. or Kamara's son. These are distinctions without a difference. Though the items in *Wiley* contained more identifying information than just that defendant's name, the items here still bore Kamara's name, positively identifying him.

The circumstances proved do not support Kamara's alternate hypothesis that only M.T. possessed the backpack and its contents. The backpack was found in a bedroom containing clothing and other items belonging to Kamara. The backpack may have contained medical documents identifying M.T. or M.T. and Kamara's son, but it also contained at least one medical document identifying only Kamara. These circumstances do not support any rational hypothesis other than that Kamara had at least a joint possessory interest in the backpack and the ammunition within it. The evidence is sufficient to show Kamara constructively possessed the ammunition in the backpack.

Affirmed.