

*This opinion is nonprecedential except as provided by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
A24-1094**

State of Minnesota,
Respondent,

vs.

Jesse Paul Kaska,
Appellant.

**Filed June 23, 2025
Affirmed
Bentley, Judge**

St. Louis County District Court
File No. 69VI-CR-23-299

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

Kimberly Maki, St. Louis County Attorney, Christopher Florey, Assistant County Attorney, Virginia, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Ede, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this direct appeal from a judgment of conviction for driving while impaired (DWI), appellant Jesse Paul Kaska argues that his conviction must be reversed for insufficient evidence that he was impaired by a controlled substance. We conclude that the evidence was sufficient to support the conviction and therefore affirm.

FACTS

The following relevant facts were elicited at a jury trial. Kaska pulled up to a pump at a gas station in Virginia, Minnesota, at about 7:30 p.m. on March 16, 2023, but he did not immediately exit the car to fill the tank. That drew the attention of an employee, who heard “a lot of screaming” coming from the vehicle. The employee testified that Kaska was acting “aggressive” and “weird.” He described Kaska as appearing “[v]ery lethargic and rolling his head and arm around, and punching the steering wheel in front of him, and then leaning down to his lap and then coming back up and rubbing his face.” After observing Kaska for a bit, the employee called the police.

When the responding officer arrived and approached the car, it was still running and the driver’s-side window was slightly open. The officer observed Kaska, who was the only occupant in the vehicle, speaking in a “loud voice” with an open Bible in his hands. When the officer asked Kaska what he was doing, Kaska said, “Just reading my Bible,” and he indicated that he was livestreaming.

The officer directed Kaska to step out of his car and asked if he had used any illegal substances that day. Kaska responded, “Nope. Just my prescription.” He told the officer that he had last smoked cannabis, for which he had a prescription, “some hours ago.” Kaska also explained that he had a Vyvanse prescription for his attention-deficit/hyperactivity disorder (ADHD) and said, “Those are my two prescriptions, the only things I take.”

At trial, the officer, who is a trained “drug recognition evaluator,” testified that he noticed the following signs and symptoms of impairment while interacting with Kaska: Kaska’s eyes were “bloodshot”; “the vein along the side of his neck was bulging out”; he

“couldn’t stand still” and “had some trouble tracking [the] conversation and focusing”; his movements were “very exaggerated”; and his speech was “agitated, loud and rapid.” Based on his observations of potential impairment, the officer asked Kaska if he would submit to field sobriety tests. Kaska agreed.

The officer administered five tests and testified to the following observations. During the convergence and horizontal gaze nystagmus tests, Kaska’s eyes “did not stay converged,” and Kaska “had trouble focusing on the stimulus” and “sway[ed]” during these tests, which can all be signs of impairment. During the walk-and-turn test, Kaska partially lost his balance a few times, “flailing his arms around and at one point . . . grabb[ing] on to the push bumper of [the] squad car to steady himself.” He was also “very stiff and rigid” and “completed an improper turn.” During the one-leg-stand test, Kaska “[h]ad trouble finding his balance initially and was swaying” but eventually caught himself. Finally, for the modified Romberg test, Kaska “estimated the passage of 30 seconds as approximately 38 seconds,” when the “typical[]” accepted range is “plus or minus 5 seconds.” During the Romberg test, the officer also noticed eyelid tremors, which can be “another sign of impairment.”

The officer testified that a determination of impairment requires examining “the totality of the circumstances,” i.e., “looking at everything combined rather than just one specific clue.” This included, as the officer testified, the fact that it was snowing outside during his interaction with Kaska. The officer affirmed that, “based on [his] training and experience,” Kaska “was . . . impaired by a drug.”

During a search of Kaska's vehicle, the officer found a container of prescribed cannabis and a bottle of Vyvanse. The Vyvanse bottle was missing 19 capsules, even though the prescription had been filled 11 days prior. The officer testified that he expected only 11 missing capsules because the label instructed Kaska to take one capsule per day.

Kaska provided a blood sample. The forensic scientist who tested the sample testified that it contained amphetamine, a Schedule II controlled substance. She also testified that Vyvanse "metabolizes into amphetamine," and that she could not determine whether the presence of amphetamine in the blood would "affect[] a person's ability to operate a motor vehicle." Another forensic scientist testified that the sample tested positive for tetrahydrocannabinol (THC), which "is the main active component of marijuana that is responsible for causing a high or . . . impairment." The results indicated that THC had entered Kaska's system within 24 hours of the test.

Kaska testified in his own defense. He stated that he was prescribed medical cannabis to treat his post-traumatic stress disorder and Vyvanse to treat his ADHD. On the day of the offense, he took Vyvanse, as prescribed, at around 10 a.m., and smoked cannabis about four hours before arriving at the gas station. According to Kaska, the nurse practitioner who prescribed the medication told him that it was "perfectly fine on those prescriptions to drive" so long as he used them "within the limits." Kaska also testified that he could not feel the effects of those substances while interacting with the officer and that he had left the eight missing pills of Vyvanse with his mother as a "backup plan" if "something happens to [the rest of his] medication." Kaska stated that he was homeless at the time.

The jury found Kaska guilty of two counts of first-degree DWI, in violation of Minnesota Statutes section 169A.20, subdivision 1(2) (the person is under the influence of a controlled substance), and 1(7) (the person’s body contains any amount of a controlled substance listed in Schedule I or II other than, as relevant, THC) (2022). The district court dismissed the DWI count under subdivision 1(7), and other driving-related charges.¹ On the remaining DWI count of driving while under the influence of a controlled substance, Minn. Stat. § 169A.20, subd. 1(2), the district court convicted Kaska and sentenced him to 62 months’ imprisonment and five years of conditional release.

Kaska appeals.

DECISION

Kaska argues that his DWI conviction must be reversed because there was insufficient evidence for the jury to find that he was “under the influence of a controlled substance” at the time of the offense. *See* Minn. Stat. § 169A.20, subd. 1(2). To prove that someone was “under the influence,” the state must establish that the person did not “possess that clearness of intellect and control of himself that he otherwise would have.” *State v. Ards*, 816 N.W.2d 679, 686 (Minn. App. 2012) (quotation omitted).

¹ Those charges were (1) driving after cancellation of a license, Minn. Stat. § 171.24, subd. 5 (2022); (2) being in physical control of a motor vehicle that is not equipped with a certified, functioning ignition interlock device, Minn. Stat. § 171.09, subd. 1(g) (2022); (3) being in physical control of a motor vehicle while in violation of a restriction relating to the possession or consumption of alcohol or controlled substances imposed in a restricted driver’s license, Minn. Stat. § 171.09, subd. 1(f)(1) (2022); and (4) driving an uninsured vehicle, Minn. Stat. § 169.797, subd. 2 (2022).

A review for sufficiency of the evidence entails a “painstaking analysis of the record,” *State v. Kremmin*, 889 N.W.2d 318, 320 (Minn. App. 2017) (quoting *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989)), *rev. denied* (Minn. Mar. 28, 2017), to determine “whether . . . a jury could reasonably conclude that the defendant was guilty of the offense,” *State v. Jones*, 4 N.W.3d 495, 501-02 (Minn. 2024) (quotation omitted). There are “two tests for evaluating a sufficiency-of-the-evidence claim,” and the appropriate test depends on whether the offense is proved by direct or circumstantial evidence. *Id.* at 501. “Direct evidence is evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *Id.* (quotation omitted). On the other hand, circumstantial evidence is “based on inference and not on personal knowledge or observation and all evidence that is not given by eyewitness testimony.” *State v. Clark*, 739 N.W.2d 412, 421 n.4 (Minn. 2007) (quotation omitted). It is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted).

If the state relied on both direct and circumstantial evidence to prove a disputed element, a reviewing court considers whether the element “is sufficiently proven by direct evidence alone.” *Jones*, 4 N.W.3d at 500 (quoting *State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016)). If not, the heightened circumstantial-evidence standard applies. *Id.* Here, we apply the circumstantial-evidence standard without deciding whether the direct evidence alone was sufficient to prove Kaska’s impairment and conclude that the evidence was sufficient. *See, e.g., State v. Easterling*, No. A20-0113, 2020 WL 5361078, at *3 n.3 (Minn. App. Sept. 8, 2020) (applying circumstantial-evidence standard because defendant’s sufficiency

challenge failed under that heightened standard); *State v. Westgaard*, No. A17-0717, 2018 WL 1149774, at *2 (Minn. App. Mar. 5, 2018) (same), *rev. denied* (Minn. May 29, 2018).²

Appellate courts use “a two-step process” to review the sufficiency of circumstantial evidence. *State v. Cruz*, 997 N.W.2d 537, 551 (Minn. 2023). First, an appellate court must “identify[] ‘the circumstances proved.’” *Id.* (quoting *State v. Hassan*, 977 N.W.2d 633, 640 (Minn. 2022)). In doing so, it may consider “only those circumstances that are consistent with the verdict.” *Id.* (quotation omitted). This requires “winnow[ing] down the evidence presented at trial to a subset of facts that is consistent with the jury’s verdict and disregard[ing] evidence that is inconsistent with the jury’s verdict.” *Id.* (quotations omitted). Second, the court must determine “whether the circumstances proved are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* Mere “‘conjecture’ or ‘speculation’” is not enough to set aside a verdict. *Id.* (quoting *State v. Al-Naseer*, 788 N.W.2d 469, 480 (Minn. 2010)).

To identify the circumstances proved, we consider the body-worn camera footage, the results of Kaska’s blood test, and the trial testimony of the officer, the cashier, and the forensic scientists. We must disregard Kaska’s testimony that he could not feel any impairing effects of Vyvanse or cannabis because that evidence is inconsistent with the verdict. *See id.*

With that lens, the circumstances proved are as follows. Kaska pulled into a gas station near a gas pump, but did not exit the car to fill up his tank. He was in the driver’s

² Nonprecedential opinions are not binding authority except as law of the case, but they may be cited for their persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c).

seat screaming aggressively and hitting the steering wheel of his car. He appeared “[v]ery lethargic” and exhibited “weird” behaviors, like “rolling his head and arm around . . . and leaning down to his lap and then coming back up and rubbing his face,” which led the employee at the gas station to call the police. Earlier that day, Kaska took an undetermined amount of Vyvanse and smoked marijuana. His blood sample contained both amphetamine and THC. Kaska’s bottle of Vyvanse was short eight capsules based on the prescribed dosage. During the field sobriety tests, Kaska showed the following signs of impairment: bloodshot eyes, a bulging vein along the side of his neck, swaying, a lack of convergence of his eyes, loss of balance, and eyelid tremors. He also exceeded the typical accepted range on the Romberg time-estimation test. Kaska exhibited a lack of balance, “agitated, loud and rapid” speech, and “rigid” and “very exaggerated” movements. He was unable to stand still, and he had “some trouble tracking [the] conversation and focusing.” In the officer’s opinion, these observations were “indicators that based on [his] training and experience would lead [him] to believe [Kaska] was . . . impaired by a drug.”

“Next, we consider whether the circumstances proved are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* (citing *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013)).

The circumstances proved are consistent with guilt. That is, the jury reasonably could have concluded that Kaska was impaired. There is no dispute that Kaska took controlled substances on the date of the offense and that eight pills of Vyvanse were missing. The officer testified that Kaska showed multiple signs of impairment, even taking into account Kaska’s ADHD diagnosis and the inclement weather. Assuming, as we must,

that the jury believed the officer's testimony, *see State v. Chambers*, 589 N.W.2d 466, 477 (Minn. 1999), the jury could reasonably have concluded that Kaska was impaired by controlled substances, *see State v. Teske*, 390 N.W.2d 388, 390-91 (Minn. App. 1986) (holding there was sufficient evidence to sustain DWI conviction where jury "evidently believed the testimony of the state's witnesses and disbelieved [defendant's] contradictory testimony").

We next consider whether the evidence excludes any reasonable inference that Kaska was not under the influence. Kaska argues that we can infer from the circumstances proved that, even though he had substances in his system, he was not under the influence. He focuses on the lack of evidence of poor driving conduct and, relying on the case *State v. Elmourabit*, 373 N.W.2d 290 (Minn. 1985), he argues that there is a rational hypothesis based on the circumstances proved that his ability or capacity to drive was not impaired.

With respect to Kaska's argument that the record lacks evidence of poor driving conduct, we typically do not consider a lack of evidence to support an alternative reasonable inference under the circumstantial-evidence test. *See Al-Naseer*, 788 N.W.2d at 480 (stating that a defendant must "point[] to evidence in the record that is consistent with a rational theory other than guilt" for it to rise beyond "mere conjecture or speculation" (quotation omitted)). Especially where there is no evidence of good driving, any inference drawn from the lack of evidence of bad driving would be speculative. *See Cruz*, 997 N.W.2d at 551 (providing that a defendant may not rely on conjecture or speculation).

The circumstances proved here are also distinct from *Elmourabit*, where the supreme court held that the evidence that the defendant was under the influence of alcohol

was insufficient to sustain a DWI conviction. 373 N.W.2d at 291. There, the field sobriety tests did not reveal any signs of impairment. *Id.* There was no “direct proof of actual consumption,” other than the defendant’s admission of having “one beer and a few sips of another,” because the defendant did not take any chemical or breath tests. *Id.* at 293. The undisputed “chronological sequence of events . . . [disproved] any prolonged access to or opportunity” for the defendant to consume alcohol to the point of impairment. *Id.* And the defendant had an undiagnosed medical condition that could account for the “outward manifestations of intoxication” that the officers and others observed. *Id.*

Here, there was direct evidence of actual consumption of controlled substances. In addition to his own admission that he smoked cannabis hours before his arrest and took Vyvanse on the morning of his arrest, Kaska’s blood sample contained amphetamine and THC metabolites. Multiple field sobriety tests showed signs of impairment. Eyewitnesses observed other signs of impairment, including aggressive screaming, loss of balance, and swaying—for which there is no explanation consistent with non-guilt. And, unlike in *Elmourabit*, where the officers and paramedics could not “say authoritatively that defendant had no medical problems or was not experiencing pain,” *id.*, such that his behavior could be explained by reasons other than impairment, the officer here testified that his training and experience led him to believe Kaska was impaired by a drug despite knowing about Kaska’s ADHD diagnosis.³ *Elmourabit* is “fact-bound,” *Teske*, 390 N.W.2d

³ We note that Kaska did not argue that we could infer from his ADHD diagnosis that his performance on the field sobriety tests resulted from a medical condition and not impairment. In any event, the only evidence in the record about his medical condition was his own testimony and the prescription bottle found in the car. Without more, any inference

at 390 (discussing *Elmourabit*), and distinguishable from Kaska’s case. It is inapposite here.

We are also not persuaded that the weather provides a basis to infer that Kaska was not under the influence. The weather does not explain much of Kaska’s conduct, such as the yelling, loss of balance, and swaying, nor does it explain his bloodshot eyes. Moreover, the officer testified that he did not have any problems walking around despite the snow. And, even considering the inclement weather, the officer still opined, based on his experience and considering “the totality of the circumstances,” that Kaska showed signs of impairment. Presuming that the jury believed the officer, as we must, *see Chambers*, 589 N.W.2d at 477, the weather does not support a rational alternative theory that Kaska was not impaired. Moreover, in “consider[ing] whether the reasonable inferences that can be drawn from the circumstances proved . . . are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt,” appellate courts “view[] [the circumstances proved] as a whole and not as discrete, isolated facts.” *State v. Smith*, 9 N.W.3d 543, 565 (Minn. 2024) (quotation omitted). Considered with the other circumstances proved as a whole, the weather does not support the conclusion that there is a rational hypothesis other than guilt here. *See id.*

In sum, the circumstances proved are “consistent with the hypothesis that [Kaska] is guilty,” i.e., was under the influence of a controlled substance, and “inconsistent with

about how his condition might have affected his performance on the field sobriety tests would have amounted to “conjecture or speculation.” *Cruz*, 997 N.W.2d at 551 (quotations omitted). Therefore, even if this argument had been raised, it would be insufficient to set aside the verdict on this record. *Id.*

any rational hypothesis other than guilt.” *Cruz*, 997 N.W.2d at 551 (quotation omitted). We therefore conclude that there was sufficient evidence to sustain the jury’s verdict.

Affirmed.