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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1301**

State of Minnesota,
Respondent,

vs.

Joseph Harrison Baynes,
Appellant.

**Filed July 7, 2025
Affirmed
Cochran, Judge**

Anoka County District Court
File No. 02-CR-21-5457

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

Tom Loonan, Blaine City Attorney, Mitchell S. Sell, Assistant City Attorney, Eckberg
Lammers, Stillwater, Minnesota (for respondent)

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

Considered and decided by Reyes, Presiding Judge; Cochran, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal, appellant argues that his misdemeanor conviction of driving
while impaired must be reversed for insufficient evidence. Because the evidence at trial

was sufficient for the jury to find beyond a reasonable doubt that appellant was under the influence of alcohol, we affirm.

FACTS

In 2021, respondent State of Minnesota charged appellant Joseph Harrison Baynes with one count of driving while impaired (DWI) in violation of Minnesota Statutes section 169A.20, subdivision 1(1) (Supp. 2021), and one count of test refusal in violation of Minnesota Statutes section 169A.20, subdivision 2(1) (2020). The complaint alleged that a law-enforcement officer encountered Baynes asleep behind the wheel of a running truck that was parked in a lot. According to the complaint, the officer arrested Baynes after he performed poorly on field sobriety tests. The complaint further alleged that Baynes refused to submit to chemical testing at the police department after his arrest.

Baynes pleaded not guilty, and the matter proceeded to a jury trial. At trial, the state called the arresting officer and introduced two exhibits containing video recordings from the night of Baynes's arrest. Baynes testified in his own defense. The testimony and exhibits received at trial established the following facts.

Law Enforcement Encounters Baynes

An officer with the Blaine Police Department was working an overnight shift on September 18, 2021. At roughly 3:00 a.m., the officer was patrolling an industrial area prone to thefts when he noticed a running pickup truck that was parked behind a business. The officer approached the truck and found a man, later identified as Baynes, slumped over and asleep in the driver's seat.

When the officer approached the truck, Baynes's driver-side window was down, so the officer pointed his flashlight at Baynes's face and attempted to speak to him. Baynes did not respond. The officer roused Baynes by knocking on the door of his truck. While the officer tried to speak with him, Baynes turned his truck off and then on again. Afraid that Baynes might attempt to drive away, the officer instructed Baynes to remove the keys from the ignition. During this initial interaction, the officer smelled the odor of alcohol emanating from the truck and observed that Baynes had "bloodshot, watery eyes" and was slurring his speech. The officer testified that he had participated in over 100 DWI stops and that he typically made similar observations of impaired drivers during those stops. In response to a question, the officer also agreed that it is common for law enforcement "to investigate DWIs when a person is sleeping in their car."

Field Sobriety Tests and Arrest

Once Baynes turned off his truck, the officer instructed Baynes to exit the truck. Outside the truck, Baynes spoke with the officer and admitted to consuming one "booze and coke." The officer testified that "the odor of an alcoholic beverage seemed to intensify while [Baynes] was speaking." The officer then told Baynes that he was going to "run a few tests" to make sure that Baynes could safely drive. He conducted three standardized field-sobriety tests: the horizontal-gaze-nystagmus (HGN), "walk-and-turn," "and one-legged stand" tests. The officer explained to the jury how each of the tests is conducted and that he received training on each. The officer testified that the purpose of the tests is not to "achieve a result," but to "make observations."

The officer first described the HGN test—an “eye test” in which an officer passes their finger back and forth in front of the suspect to see if the suspect’s eyes are “jerking.” The officer testified that a “lack of smooth pursuit,” or “nystagmus,” “is typical in a DWI.” The officer testified that he conducted an HGN test on Baynes and observed nystagmus. On cross-examination, the officer conceded that he typically held his finger at “maximum deviation” for only “a second or two” while conducting HGN tests, even though the standard for HGN testing is to hold at maximum deviation for a minimum of four seconds. The officer agreed with defense counsel that if he “were just doing it for two seconds, [he] wouldn’t be conducting the test properly” because nystagmus “can naturally occur for a couple seconds.”

The officer next described the walk-and-turn test, which requires the suspect to take nine toe-to-heel steps in a straight line before turning around and returning to the original position with the same number of toe-to-heel steps. While explaining the test to Baynes, the officer directed him to remain in an “instructional” position. The officer observed that Baynes failed to stay in that position during the explanation. And when he performed the walk-and-turn test, Baynes missed several toe-to-heels and took only seven steps. The officer testified that Baynes’s performance suggested impairment. On cross-examination, the officer admitted that he asked Baynes to walk on an imaginary straight line, even though “there were many straight lines available” in the parking lot. The officer further agreed that the test subject’s footwear could impact their performance on the walk-and-turn test. The officer could not recall Baynes’s shoes on the night of his arrest, but the video exhibits admitted at trial show that he wore slide-on sandals.

The officer described one more field sobriety test—the one-legged stand. That test requires the suspect to lift one of their legs to the approximate height of a “pop can,” “hold their toe out straight,” and then count aloud until the officer tells the suspect to stop. While Baynes underwent this test, he “kept putting his foot down” and hopped “a couple times.” Baynes also raised one of his arms during the test. The officer added that he could not understand Baynes when Baynes spoke to the officer during this test. The officer testified that these observations all suggested impairment.

After completing the field sobriety tests, the officer attempted to conduct a portable breath test (PBT) on Baynes. The officer instructed Baynes to blow into the PBT device, but when Baynes put his mouth to the device it returned a “void” result. The officer told Baynes, “I don’t think you’re blowing in it.” The officer attempted to conduct the PBT again, but Baynes “appeared [to] blow[] out the side of his mouth instead of into the [device].” The officer then arrested Baynes on suspicion of DWI. The officer testified that he arrested Baynes because the “clues” in the various field sobriety tests “were showing impairment.” The officer also believed that Baynes was under the influence because of his slurred speech, his bloodshot eyes, and “the smell of an alcoholic beverage that intensified when he spoke.”

The officer transported Baynes to the police department. There, the officer instructed Baynes to take another breath test for alcohol concentration. After Baynes refused, the officer informed Baynes that he was also under arrest for test refusal. At that point, Baynes relented and agreed to take a breath test, but the officer continued to construe Baynes as having refused the test.

Baynes's Version of Events

During his testimony, Baynes explained why he was sleeping in his truck in the industrial parking lot. Baynes testified that he had worked a 12- to 13-hour shift the day before, which finished around 7:30 p.m. Baynes said that he went to a bar after work and had one drink. While at the bar, Baynes found out from his employer that he had to pick up a trailer in Blaine and bring it to Woodbury by 6:00 a.m. Baynes testified that he drove to the location of the trailer and fell asleep there in his truck—something he often did. Baynes testified that the next thing he remembered was being woken up by a police officer and being asked to do field sobriety tests.

Verdict and Sentencing

The jury found Baynes guilty of DWI and not guilty of test refusal. The district court sentenced Baynes to local confinement in jail for 364 days.

Baynes appeals.

DECISION

Baynes asks us to reverse his conviction for DWI, arguing that the evidence is insufficient to support the conviction. Due process requires the state to prove each element of the charged offense beyond a reasonable doubt. *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023). Under section 169A.20, subdivision 1(1), it is a crime to “drive, operate, or be in physical control of” a motor vehicle while “under the influence of alcohol.” Baynes does not dispute that the evidence at trial was sufficient to prove beyond a reasonable doubt that he was “in physical control” of his truck when the officer found him sitting in the driver’s seat. *See State v. Mendez Cabrera*, 15 N.W.3d 837, 841 (Minn.

App. 2024) (“A person is generally considered to be in physical control of a vehicle if they have the means to initiate any movement of that vehicle, and are in close proximity to the operating controls of the vehicle.” (quotation omitted)), *rev. denied* (Minn. Apr. 15, 2025). Instead, Baynes limits his argument to whether the evidence was sufficient to prove beyond a reasonable doubt that he was under the influence of alcohol within the meaning of the DWI statute. This element is satisfied when “the state shows that the driver had drunk enough alcohol so that the driver’s ability or capacity to drive was impaired in some way or to some degree.” *State v. Shepard*, 481 N.W.2d 560, 562 (Minn. 1992).

Standard of Review

The supreme court has “adopted two tests for evaluating a sufficiency-of-the-evidence” argument—the traditional test and the heightened two-step test. *State v. Jones*, 4 N.W.3d 495, 500 (Minn. 2024). Under the traditional test, we conduct “a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). Under the heightened two-step test, we consider the circumstances proved by the state and whether they are “consistent with guilt and inconsistent with any rational hypothesis other than guilt.” *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017) (quotation omitted).

The traditional test applies when a disputed element is proved by direct evidence, whereas the two-step test applies when a disputed element is proven by circumstantial evidence. *Jones*, 4 N.W.3d at 500. Direct evidence is “based on personal knowledge or observation and . . . , if true, proves a fact without inference or presumption.”

State v. Harris, 895 N.W.2d 592, 599 (Minn. 2017) (quotations omitted). Circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted). “Thus, circumstantial evidence always requires an inferential step to prove a fact that is not required with direct evidence.” *Id.*

The parties disagree as to whether we should apply the direct- or circumstantial-evidence test to evaluate the sufficiency of the evidence on the impairment element. Baynes argues that the heightened circumstantial-evidence test applies because the state introduced no direct evidence that his “ability or capacity to drive was impaired in some way or to some degree.” *See Shepard*, 481 N.W.2d at 562. The state contends that the direct-evidence standard applies because the officer’s testimony and the video of Baynes performing field sobriety tests are direct evidence of Baynes’s impairment. We apply the circumstantial-evidence test without deciding whether the state proved Baynes’s impairment with direct evidence and conclude that the circumstantial evidence was sufficient.

Circumstantial-Evidence Test

Under the two-step circumstantial-evidence test, an appellate court’s first step is to “identify the circumstances proved by the state.” *Loving*, 891 N.W.2d at 643. In doing so, we “winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict, resulting in a subset of facts that constitute ‘the circumstances proved.’” *Harris*, 895 N.W.2d at 600. At step two, we independently “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt, not simply whether the inferences that point to guilt are

reasonable.” *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013) (quotation omitted). During the second step, we “independently examine the reasonableness of all inferences that might be drawn from the circumstances proved,” giving no deference to the jury verdict. *Loving*, 891 N.W.2d at 643 (quotation omitted). Importantly, we “review the circumstantial evidence not as isolated facts, but as a whole.” *Silvernail*, 831 N.W.2d at 599. “To sustain the conviction, the circumstances proved, when viewed as a whole, must be consistent with a reasonable inference that the accused is guilty and inconsistent with any rational hypothesis except that of guilt.” *Harris*, 895 N.W.2d at 601.

We address each step in turn.

Circumstances Proved

The state proved the following circumstances at trial that are relevant to whether Baynes was under the influence of alcohol. *See Loving*, 891 N.W.2d at 643 (stating that when applying the circumstantial evidence test, we begin by identifying “the circumstances proved”). An officer found Baynes sitting in the driver’s seat of his running truck, slumped over and asleep, in a parking lot at 3:00 a.m. It is common for DWI suspects to be slumped over and sleeping in their car. Baynes did not wake up until the officer knocked on Baynes’s truck door, despite the officer speaking to Baynes through an open window and shining a flashlight at him. When Baynes woke up, he looked confused and sluggish. The officer noticed the odor of alcohol and that Baynes’s eyes were bloodshot and watery. Baynes was also slurring his speech. When Baynes spoke, the odor of alcohol emanating from him intensified. Baynes admitted to consuming an alcoholic beverage earlier that evening.

The officer, who has experience investigating DWIs, conducted three field sobriety tests on Baynes—an HGN, a walk-and-turn, and a one-legged stand. The officer conducted the tests to make observations about how Baynes performed. During the HGN test, Baynes exhibited nystagmus. But the officer acknowledged that he looked for the nystagmus at maximum deviation for only two seconds rather than the standard four seconds. Baynes also made several mistakes during the walk-and-turn and one-legged-stand tests including taking the incorrect number of steps, missing toe-to-heel steps, and hopping around for balance. Baynes was wearing sandals at the time of the testing. Baynes continued to slur his speech during the tests. Based on Baynes’s performance on the tests, the officer believed that Baynes was impaired by alcohol. The officer also believed that Baynes was impaired, and not merely tired, due to Baynes’s bloodshot, watery eyes; his slurred speech, and the smell of alcoholic beverages that intensified as he spoke. Based on his belief that Baynes was impaired, the officer instructed Baynes to perform a PBT after conducting the field-sobriety tests. When taking the PBT, Baynes failed to blow into the PBT device and instead blew out of the side of his mouth, which “void[ed]” the test.

Reasonable Inferences

We next consider whether the circumstances proved, considered as a whole, are consistent with the hypothesis of guilt and inconsistent with any rational hypothesis other than guilt. *See id.* To prove Baynes’s guilt of DWI, the state had to prove beyond a reasonable doubt that Baynes was under the influence of alcohol, i.e., that he “[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).

We conclude that the circumstances proved support a rational inference that Baynes was under the influence of alcohol on the night in question. When the officer first encountered Baynes, Baynes was slumped over and asleep at the wheel of his running truck. And, when he awoke, Baynes exhibited multiple indicia of alcohol impairment including bloodshot eyes, slurred speech, and smelling of alcohol. His performance on three field sobriety tests provided several more clues of his impairment. The arresting officer, who has participated in over 100 DWI arrests, testified that he believed Baynes was impaired based on the tests and the other signs of impairment. Additionally, when the officer asked Baynes to take a PBT, Baynes appeared to deliberately avoid blowing into the PBT device, suggesting that he had alcohol in his system that he wanted to conceal. Considered as a whole, the circumstances proved are more than sufficient to support the inference that Baynes was under the influence of alcohol such that he lacked the “clearness of intellect and control of himself that he otherwise would have.” *See id.* (quotation omitted).

Baynes argues that these circumstances are also consistent with a rational alternative hypothesis other than guilt—specifically, that Baynes was fatigued, and not under the influence of alcohol, when the officer found him in the truck. He also contends that there are rational, non-alcohol-related explanations for his poor performance on the field-sobriety tests. To support his argument, Baynes focuses on certain circumstances proved in isolation. For instance, Baynes contends that his confusion and slurred speech are reasonably consistent with him being fatigued on account of working a long shift the previous day and being woken up at 3:00 a.m. And Baynes argues that the nystagmus he

exhibited on the HGN test is reasonably explained by the officer's failure to hold a finger at maximum deviation for at least four seconds. Likewise, Baynes asserts that his struggles with the walk-and-turn and one-legged-stand tests can be reasonably attributed to his slide sandals rather than impairment. Taken in isolation, these arguments may seem rational. But the circumstantial-evidence test requires us to consider the circumstances proved as a whole, not individually. *Silvernail*, 831 N.W.2d at 599. Therefore, Baynes's focus on isolated circumstances is unavailing. And given the totality of the circumstances proved—including the odor of alcohol emanating from Baynes, his slurred speech *throughout* the encounter, his bloodshot and watery eyes, his poor performance on aspects of three field sobriety tests, and his avoidance of the PBT—we conclude that the only reasonable inference to be drawn from the totality of the circumstances proved is that Baynes was under the influence of alcohol.

Lastly, we reject Baynes's reliance on *State v. Elmourabit*, 373 N.W.2d 290 (Minn. 1985). In that case, the supreme court affirmed the reversal of a DWI conviction for insufficient evidence because the circumstances proved left reasonable doubt as to whether the defendant was under the influence of alcohol. *Elmourabit*, 373 N.W.2d at 294. Noting that its decision was a "rare exception," the supreme court discussed several reasonable alternative explanations for the defendant's "outward manifestations of intoxication." *Id.* at 293-94. For instance, the defendant's slurred speech was reasonably attributable to the fact that he was not a native English speaker; the odor of alcohol detected on the defendant was reasonably attributable to the fact that he consumed just one beer before driving, a fact corroborated by witness testimony; the defendant's glassy, bloodshot

eyes were reasonably explained by competing evidence of the defendant's "heightened hyperventilative state"; and, although there was testimony that the defendant lacked coordination during the arrest, video-taped dexterity tests showed no such coordination issues. *Id.* at 292-94. As we noted in another decision, *Elmourabit* involved "substantial affirmative evidence that tended to negate the plausibility of the charge." *State v. Mohomoud*, 788 N.W.2d 152, 156 (Minn. App. 2010), *vacated in part on other grounds mem.* (Minn. Nov. 23, 2010).

But there is no such affirmative evidence negating Baynes's guilt here. Unlike *Elmourabit*, the circumstances proved include no alternative rational explanation for Baynes's slurred speech throughout the arrest. No evidence corroborates Baynes's claim that he had only one drink before driving to the parking lot. There is no evidence that Baynes had a medical condition that could explain his physical indicia of impairment. And the video of Baynes performing field sobriety tests corroborates the officer's testimony about observing clues of Baynes's impairment during those tests. Because there is no affirmative evidence negating Bayne's guilt of driving while intoxicated, this case is not the rare exception that *Elmourabit* was. Instead, there is only Baynes's speculation, and an alternative hypothesis to guilt cannot be based on mere conjecture. *State v. Andersen*, 784 N.W.2d 320, 330 (Minn. 2010).

In sum, based on the circumstances proved, we conclude there is no rational hypothesis other than that Baynes's ability to drive was impaired because he was under the

influence of alcohol. Therefore, the state sufficiently proved Baynes's guilt beyond a reasonable doubt under the circumstantial-evidence test.

Affirmed.