

*This opinion is nonprecedential except as provided by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
A25-0105**

State of Minnesota,
Respondent,

vs.

Albert William Brown,
Appellant.

**Filed December 29, 2025
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-23-23183

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Johnson, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A Hennepin County jury found Albert William Brown guilty of possession of a firearm by an ineligible person based on evidence that police officers found a handgun in the front seat of his car, of which he was the driver and sole occupant. We conclude that

the evidence is sufficient to support the conviction and that the prosecutor did not plainly engage in prosecutorial misconduct. Therefore, we affirm.

FACTS

During the evening of October 28, 2023, a sergeant with the Hennepin County Sheriff's Office saw a car run a red light. The officer conducted a traffic stop. The officer searched a law-enforcement database and learned that Brown was the registered owner of the car. When the officer approached the car, he saw that the driver, later identified as Brown, was the only occupant of the car. The officer saw an open beer can in a cupholder and the top of a liquor bottle on the driver's seat, next to Brown's hip. The officer asked Brown to step out of the car.

A detective arrived at the scene while the sergeant was speaking to Brown and participated in a search of Brown's car. While standing inside the open driver's-side door, an officer saw part of a handgun under the front-seat armrests. That officer and the detective lifted the armrests, which revealed a handgun wedged between the cushions of the two front seats, with the handle upward. At trial, the detective testified that the handgun would have been approximately four to six inches from the hip of a person sitting in the driver's seat. Subsequent investigation revealed that the handgun was loaded. Investigators did not test the handgun for DNA or fingerprints.

The state charged Brown with possession of a firearm by an ineligible person, in violation of Minn. Stat. § 624.713, subd. 1(2) (2022). The case was tried to a jury on two days in October 2024. At the outset of trial, the parties stipulated that Brown was ineligible to possess a firearm. The state called three witnesses, including the sergeant and the

detective mentioned above. Brown did not testify and did not introduce any evidence. The jury returned a verdict of guilty. The district court imposed a sentence of 60 months of imprisonment. Brown appeals.

DECISION

I. Sufficiency of the Evidence

Brown argues that the evidence is insufficient to prove beyond a reasonable doubt that he knowingly possessed the handgun that was found in the front seat of his car while he was the driver and sole occupant.

To prove the offense of possession of a firearm by an ineligible person, the state must prove that the defendant knowingly possessed a firearm while prohibited by law from doing so. Minn. Stat. § 624.713, subd. 1(2); *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). The state must prove both an *actus reus* and a *mens rea*. See *State v. Salyers*, 858 N.W.2d 156, 160-61 (Minn. 2015). The *actus reus* of the offense is a defendant's possession of a firearm, which may be accomplished by either actual possession or constructive possession. See *id.* (citing *State v. Florine*, 226 N.W.2d 609, 611 (Minn. 1975)). The *mens rea* of the offense is a defendant's knowledge that he or she was in possession of a firearm, as well as the defendant's knowledge that he or she had a prior conviction. *Id.* at 161; *Underwood v. State*, 25 N.W.3d 26, 39 (Minn. 2025).

In this case, Brown does not challenge the state's evidence of the *actus reus*; he challenges only the state's evidence of the *mens rea* by arguing that the state did not prove beyond a reasonable doubt that he knowingly possessed the handgun. The parties agree

that proof of Brown’s knowledge necessarily is based on circumstantial evidence. *See Harris*, 895 N.W.2d at 601-02; *Salyers*, 858 N.W.2d at 160 & n.2.

If a conviction rests on circumstantial evidence, this court reviews the sufficiency of the evidence with a two-step analysis. *State v. Petersen*, 910 N.W.2d 1, 6-7 (Minn. 2018); *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). At the first step, we “identify the ‘circumstances proved.’” *State v. Isaac*, 9 N.W.3d 812, 815 (Minn. 2024) (quoting *State v. McInnis*, 962 N.W.2d 874, 890 (Minn. 2021)). “In identifying the circumstances proved, we assume that the jury resolved any factual disputes in a manner that is consistent with the jury’s verdict.” *Moore*, 846 N.W.2d at 88. Accordingly, we “disregard evidence that is inconsistent with the jury’s verdict.” *Harris*, 895 N.W.2d at 601. At the second step of the analysis, “we examine independently the reasonableness of the inferences that might be drawn from the circumstances proved,” determine whether “the circumstances proved are consistent with guilt,” and determine whether the circumstances proved are “inconsistent with any rational hypothesis except that of guilt.” *Moore*, 846 N.W.2d at 88 (quotations omitted). At the second step, we do not give deference to the jury’s verdict. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017).

At the first step of the circumstantial-evidence analysis, we begin by identifying the relevant circumstances proved, which are as follows. A police officer stopped the car Brown was driving. Brown was the registered owner of the car. Brown was the sole occupant of the car. After Brown exited the car, officers saw a handgun wedged between the cushions of the front seats, under the armrests. The handgun was located approximately

four to six inches from where Brown's hip would have been when he was in the driver's seat. The handle of the handgun was pointing upward. The handgun was loaded.

At the second step of the circumstantial-evidence analysis, we continue by determining whether "the circumstances proved are consistent with guilt." *Moore*, 846 N.W.2d at 88 (quotations omitted). Brown's knowledge of the presence of the handgun may be inferred from the fact that he owned the car and was the driver and sole occupant of the car when the handgun was found; from the location of the handgun, only inches away from where he was sitting while driving the car and easily within his reach; and from the fact that the handgun was loaded and was positioned with the handle upward, which indicates that the handgun was ready for use. Thus, the circumstances proved are consistent with the jury's finding that Brown is guilty. *See* Minn. Stat. § 609.672 (2020) (providing that "presence of a firearm in a passenger automobile permits the fact finder to infer knowing possession of the firearm by the driver or person in control of the automobile when the firearm was in the automobile").

We conclude by determining whether the circumstances proved are "inconsistent with any rational hypothesis except that of guilt." *Moore*, 846 N.W.2d at 88 (quotations omitted). Brown identifies only one hypothesis that might be inconsistent with the jury's finding of guilt: he asserts that "someone unbeknownst to Brown had left the firearm in his car." But no evidence was introduced at trial that any other person had occupied Brown's car at any time before he was stopped by a police officer. *Cf. Harris*, 895 N.W.2d at 602-03 (reversing conviction of appellant who drove car registered to someone else with three passengers who had access to firearm); *State v. Sam*, 859 N.W.2d 825, 835-36 (Minn. App.

2015) (reversing conviction of appellant who drove borrowed vehicle with contraband in glove compartment). To prevail at this step of the circumstantial-evidence analysis, an appellant “must . . . point to evidence in the record that is consistent with a rational theory other than guilt.” *State v. Segura*, 2 N.W.3d 142, 158 (Minn. 2024) (quotation omitted). “A defendant may not rely on mere conjecture to argue that the circumstances proved, as a whole, are consistent with a reasonable hypothesis of her innocence.” *Id.* (quotation omitted). Without any evidence to support his argument, Brown’s sole alternative hypothesis is not rational.

Thus, the evidence is sufficient to prove that Brown knowingly possessed the handgun and, thus, sufficient to support his conviction of possession of a firearm by an ineligible person.

II. Prosecutorial Misconduct

Brown also argues, in the alternative, that he is entitled to a new trial on the ground that the prosecutor engaged in prosecutorial misconduct in rebuttal closing argument by misstating the state’s burden of proof.

The right to due process includes the right to a fair trial. *State v. Duol*, 25 N.W.3d 135, 141 (Minn. 2025). “Prosecutors have an affirmative obligation to ensure that a defendant receives a fair trial.” *State v. Jones*, 753 N.W.2d 677, 686 (Minn. 2008) (quotation omitted). Consequently, prosecutorial misconduct may result in the denial of the right to a fair trial. *State v. Ramey*, 721 N.W.2d 294, 300 (Minn. 2006). “A prosecutor engages in prosecutorial misconduct when he violates clear or established standards of

conduct, e.g., rules, laws, orders by a district court, or clear commands in this state’s case law.” *State v. McCray*, 753 N.W.2d 746, 751 (Minn. 2008) (quotation omitted).

Brown challenges the following statements of the prosecutor during the rebuttal closing argument:

So what I would ask you to do when you deliberate is to consider what’s reasonable. Is it reasonable to think that someone forgot a loaded handgun in the defendant’s car, or that someone hid a loaded handgun in the defendant’s car and that they did so not in the glove box, not in the trunk, not under a seat, but just between the front seats, four to six inches from the driver, touching the driver’s seat? Or is it *more reasonable* that the gun was there because the defendant put it there? Is it reasonable to think that the defendant is sitting in that driver’s seat with a loaded gun four to six inches from his hip, four to six inches from his right hand, and he doesn’t know it’s there, or is it *more reasonable* that he knows it’s there? (Emphasis added.)

Brown argues that the prosecutor misrepresented the state’s burden of proof by asking jurors to determine whether the state’s theory of the case or Brown’s theory of the case is “more reasonable.” Brown contends that those statements imply that the state need prove only that much—that the state’s theory is more reasonable than Brown’s theory—without regard for the state’s obligation to prove his guilt beyond a reasonable doubt.

Brown did not object to the rebuttal argument at trial. Accordingly, we apply a modified plain-error test. *State v. Carridine*, 812 N.W.2d 130, 146 (Minn. 2012). To prevail under the modified plain-error test, an appellant first must establish that an error occurred. *Ramey*, 721 N.W.2d at 302. The appellant then must show that the error was plain. *Id.* “An error is plain if it was clear or obvious.” *Id.* (quotations omitted). At the third step of the modified plain-error test, the burden shifts to the state to show “that there

is no reasonable likelihood that the absence of the misconduct in question would have had a significant effect on the verdict of the jury.” *Id.* (quotations omitted). If the state does not satisfy that burden, the appellate court proceeds to the fourth step to determine whether the plain misconduct should result in a new trial “to ensure the fairness and integrity of judicial proceedings.” *State v. Portillo*, 998 N.W.2d 242, 256 (Minn. 2023).

It is elementary that the state bears the burden of proving all elements of a criminal offense beyond a reasonable doubt. *See, e.g., In re Winship*, 397 U.S. 358, 364 (1970); *Portillo*, 998 N.W.2d at 248-49. To misstate the state’s burden of proof is “highly improper” and is considered prosecutorial misconduct. *State v. McDaniel*, 777 N.W.2d 739, 750 (Minn. 2010) (quotation omitted); *see also State v. Jackson*, 773 N.W.2d 111, 122 (Minn. 2009); *State v. Hunt*, 615 N.W.2d 294, 302 (Minn. 2000). Brown relies heavily on *State v. Strommen*, 648 N.W.2d 681 (Minn. 2002), in which the prosecutor made the following statement in closing argument: “When we have difficult cases like this, sometimes the only way to deal with it is just to weigh the story in each hand and decide which one is most reasonable, which one makes the most sense.” *Id.* at 685. The supreme court commented that the prosecutor’s statement “was a misstatement of the state’s burden to prove each element of the crime charged beyond a reasonable doubt.” *Id.* at 690.

In this case, Brown’s attorney acknowledged in closing argument the possibility that the handgun belonged to Brown but also suggested that some other person might have left the handgun in Brown’s car. Brown’s attorney concluded his closing argument by stating that “those are equal possibilities,” that “the tie goes to the runner,” and that, “if you can’t decide one is more likely than the other, that’s not guilty.”

Immediately thereafter, the prosecutor began his rebuttal argument by referring to and reiterating the district court's instruction concerning reasonable doubt. The prosecutor then asked the jury to consider whether the inferences suggested by Brown's attorney were reasonable. In doing so, the prosecutor twice asked the jury to consider whether the inference suggested by the state was "more reasonable."

Because Brown did not object at trial, the prosecutor did not have an opportunity to explain the purpose of or otherwise justify the challenged statements. Nonetheless, it appears that the prosecutor was responding directly to Brown's attorney's statement that, "if you can't decide one is more likely than the other, that's not guilty." In essence, Brown's attorney made an argument based on the premise that the state's theory and the defense theory were equally likely, and the prosecutor apparently sought to persuade the jury to reject that premise. Such an argument is justified because a prosecutor "has the right to fairly meet the arguments of the defendant." *Jackson*, 773 N.W.2d at 123; *see also State v. Simion*, 745 N.W.2d 830, 844 (Minn. 2008) (reasoning that prosecutor may argue that a defense lacks merit). Also, the prosecutor's statement was specific to the evidence in this case. In that way, the challenged statement is different from the challenged statement in *Strommen*, in which the prosecutor made a general statement that, in difficult cases, jurors should "weigh" each party's "story" and choose the one that is more reasonable or sensible than the other. 648 N.W.2d at 685. The prosecutor in this case did not make such a general statement; the prosecutor merely asserted that the parties' respective theories were not equally plausible. Accordingly, the prosecutor's rebuttal argument was not clearly or obviously contrary to the *Strommen* opinion.

Thus, the prosecutor did not plainly engage in prosecutorial misconduct.

Affirmed.