

*This opinion is nonprecedential except as provided by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
A25-0900**

State of Minnesota,
Respondent,

vs.

Nyapuot Dech Kuek,
Appellant.

**Filed April 13, 2026
Affirmed
Larkin, Judge**

Blue Earth County District Court
File No. 07-CR-24-1473

Keith Ellison, Attorney General, Tara Reese Duginske, Assistant Attorney General, St. Paul, Minnesota; and

Corey Haller, Mille Lacs County Attorney, Milaca, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Paul J. Maravigli, Special Assistant Public Defender, Minneapolis, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Larkin, Judge; and Smith, John P., Judge.*

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

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges her conviction of first-degree controlled substance possession, arguing that the evidence was insufficient to support the jury's guilty verdict and that the state did not present sufficient evidence to corroborate her confession. We affirm.

FACTS

Appellant Nyapuot Dech Kuek argues that her conviction for first-degree possession of a controlled substance must be reversed because the evidence was insufficient to sustain the underlying guilty verdict and because the state did not present sufficient evidence to corroborate her confession.

In April 2024, the police executed a search warrant at an apartment in Mankato. During the execution of the search warrant the police discovered 5,937 fentanyl pills throughout the apartment. The police also found paraphernalia consistent with drug use and drug sales in the apartment.

Kuek was in the apartment when the police searched it. The police did not find any pills on Kuek's person, but when the police searched her purse, they found paraphernalia associated with drug use. After the warrant was executed, Kuek gave a statement to the police in which she admitted that she knew there were thousands of pills in the apartment, that she knew who brought the fentanyl to the apartment, and that she had participated in counting the pills.

Respondent State of Minnesota initially charged Kuek with two counts: first-degree conspiracy to sell a mixture containing fentanyl and first-degree conspiracy to possess a

mixture containing fentanyl. The state later amended its complaint to include two more charges: first-degree sale of a mixture containing fentanyl or aiding or abetting the sale, and first-degree possession of a mixture containing fentanyl or aiding or abetting such possession.

At the conclusion of the state's case, the district court granted Kuek's motion for judgment of acquittal on the conspiracy charges and the first-degree-sale charge. The district court submitted the charge of first-degree possession to the jury. The jury was instructed that Kuek could be convicted if she either possessed 100 or more dosage units of a mixture containing fentanyl or if she aided or abetted such possession.

The jury found Kuek guilty, and the district court sentenced Kuek to serve 75 months in prison.

Kuek appeals.

DECISION

I.

Kuek contends that the evidence was insufficient to support the jury's guilty verdict. When considering a challenge to the sufficiency of the evidence, we "carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury 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 fact-finder believed the state's witnesses and disbelieved contrary evidence. *Id.* We defer to the jury's credibility determinations and

will not reweigh the evidence on appeal. *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009); *State v. Watkins*, 650 N.W.2d 738, 741 (Minn. App. 2002). And we will not disturb a guilty verdict if the jury, acting with due regard for the presumption of innocence and requirement of proof beyond a reasonable doubt, could reasonably have concluded that the state proved the defendant's guilt. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

But if the state relied on circumstantial evidence to prove an element of an offense, as is the case here, we apply a heightened standard of review. *See State v. Harris*, 895 N.W.2d 592, 601-03 (Minn. 2017) (applying circumstantial-evidence standard to individual element of criminal offense that was proved by circumstantial evidence). Circumstantial evidence is “evidence from which the [fact-finder] can infer whether the facts in dispute existed or did not exist.” *Id.* at 599 (quotation omitted). The parties disagree regarding which standard of review should be applied here. We need not resolve that issue because the evidence was sufficient to sustain the verdict under the heightened circumstantial-evidence standard.

The Minnesota Supreme Court recently reiterated “our long-standing two-step circumstantial-evidence test.” *State v. Firkus*, ___ N.W.3d ___, ___, 2026 WL 517248, at *1 (Minn. Feb. 25, 2026). Under that test, we first “winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict, which results in a subset of facts that constitute the circumstances proved.” *Id.* at *5 (quotations omitted). Next, “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.* (quotations omitted). “During the second step, we do not defer to the factfinder but examine the reasonableness of the inferences ourselves.” *Id.* at *9 (quotation omitted). “If 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.* (quotations omitted). But appellate courts “will not reverse a conviction based on mere conjecture” or “speculation.” *Id.* (quotation omitted); *State v. Al-Naseer*, 788 N.W.2d 469, 480 (Minn. 2010).

Kuek was convicted of first-degree possession under Minn. Stat. § 152.021, subd. 2(a)(3) (Supp. 2023), with reference to Minn. Stat. § 609.05, subd. 1 (2022).¹ To secure a conviction under section 152.021, subdivision 2(a)(3), the state must prove possession of 25 total grams or 100 dosage units or more of a mixture containing fentanyl. “Possession may be proved through evidence of actual or constructive possession.” *Harris*, 895 N.W.2d at 601. Actual possession “involves direct physical control.” *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016) (quotation omitted). But “[t]he mere fact that an item is not in a defendant’s physical possession at the time of apprehension does not preclude prosecution for actual possession of contraband.” *Id.* at 354.

The purpose of the constructive-possession doctrine is to include within the possession statute those circumstances in which

¹ The jury was instructed that Kuek could be found guilty if she actually or constructively possessed 100 dosage units or more of a mixture containing fentanyl, or if she aided or abetted such possession.

the state cannot prove actual or physical possession at the time of arrest but where the inference is strong that the defendant at one time physically possessed the substance and did not abandon his possessory interest in the substance but rather continued to exercise dominion and control over it up to the time of the arrest.

State v. Florine, 226 N.W.2d 609, 610 (Minn. 1975).

Constructive possession may be established in one of two ways. *Harris*, 895 N.W.2d at 601. The state must show either 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 that, if others had access, “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].” *Id.*

Under section 609.05, subdivision 1, “[a] person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.”² A person intentionally aids another in the commission of a crime when the person (1) knew that the alleged accomplices were going to commit a crime, and (2) intended her presence or actions to further the commission of that crime. *State v. McAllister*, 862 N.W.2d 49, 52 (Minn. 2015). Although a person’s mere presence at a crime scene does not alone prove that she aided or abetted, “active participation in the overt act that constitutes the substantive offense is not

² “Aiding and abetting is not a separate substantive offense,” but is “a theory of criminal liability.” *State v. Segura*, 2 N.W.3d 142, 156 (Minn. 2024) (quotation omitted). “In other words, section 609.05 makes accomplices criminally liable as principals.” *State v. Ezeka*, 946 N.W.2d 393, 407 (Minn. 2020).

required.” *State v. Johnson*, 811 N.W.2d 136, 150 (Minn. App. 2012) (quotation omitted), *rev. denied* (Minn. Mar. 28, 2012). And, “a defendant’s presence, companionship, and conduct before and after an offense is committed are relevant circumstances from which the jury may infer criminal intent.” *Id.* (quotation omitted).

Viewing the evidence in the light most favorable to the verdict, the relevant circumstances proved are that:

- The police learned from a confidential informant that an unknown source was bringing a large amount of fentanyl to Mankato.
- The police conducted surveillance on an apartment to verify the information that was provided.
- The police were previously aware of the apartment and understood it to be a “home base” for drug trafficking activity in the area.
- During surveillance, the police observed a number of people including Kuek come and go from the apartment, and a vehicle with out-of-state license plates arrive at the apartment.
- When the police executed the search warrant at the apartment, they discovered six people in the apartment, including Kuek.
- The police found 5,937 fentanyl pills in several locations throughout the apartment, but did not find any pills on Kuek’s person or in her purse.
- When the police searched Kuek’s purse, they found paraphernalia associated with drug use including a plastic straw, a bubble pipe, and hypodermic needle.
- The police also found paraphernalia associated with drug use and drug sales throughout the apartment, including aluminum foil which appeared to have been used to consume fentanyl, hypodermic needles, tourniquets, saline water, Narcan, and digital scales.
- When the police interviewed Kuek, she first denied any knowledge of the fentanyl but then admitted that she knew there were thousands of pills in the

apartment, and that she knew which individual brought the fentanyl to the apartment.

- Kuek also told the police that she had been counting out the pills in the apartment.

The following circumstances proved support a reasonable inference that Kuek was guilty of first-degree possession of a controlled substance: (1) Kuek was present at the apartment, (2) her purse contained paraphernalia consistent with fentanyl use, (3) she admitted that she knew that thousands of fentanyl pills were in the apartment and who brought them to the apartment, and (4) she admitted to counting the fentanyl pills. *See State v. Arnold*, 794 N.W.2d 397, 399, 400-01 (Minn. App. 2011) (holding that the circumstantial evidence supported the determination that Arnold constructively possessed methamphetamine where, among other things, she admitted to the police that she physically handled the drugs). Those facts also support a reasonable inference that Kuek was guilty of aiding and abetting the commission of that offense.

To persuade us otherwise, Kuek argues that the circumstances proved support an alternative reasonable hypothesis of innocence—that she was merely present at the apartment and did not possess 100 dosage units or more of a mixture containing fentanyl. The crux of Kuek’s argument, however, depends on her assertion that the circumstances proved do not include her admission that she counted pills.

The record reveals that the officers’ testimony conflicted regarding Kuek’s admission. At trial, one of the officers who interviewed Kuek after her arrest testified as follows:

Q: Okay. Did she make any admissions about being involved with counting the pills on a table in that apartment?

A: She made mention of it, but I, for my recollection, she wasn't a part of that, she just saw it.

Q: That people were counting out pills on the [sic] table in that apartment, is that correct?

A: That is correct.

The other officer testified:

Q: Did you talk to her about having any knowledge of the pills being in the apartment?

A: I did.

Q: What did she say when you asked her about the pills?

A: At first, she denied any knowledge.

Q: And did she change that story?

A: Yes.

Q: What did she say after changing her story?

A: She explained that she had seen and was counting out pills in the apartment, and it was more than she's ever seen in her life.

Because the state did not introduce a recording of Kuek's statement to the officers, the only evidence on which the jury could rely to determine whether Kuek admitted that she participated in "counting out" the fentanyl pills was the officers' testimony regarding her statements to them. Although we do not defer to the jury's choice of reasonable inferences on review of circumstantial evidence, we defer to the jury's credibility determinations in winnowing down the evidence to the circumstances proved. *Firkus*,

2026 WL 517248, at *6, *9. And in determining the circumstances proved, we “resolv[e] all questions of fact in favor of the jury’s verdict.” *Id.* at *5 (quotation omitted). Because we defer to the jury’s credibility determinations and resolve all questions of fact in favor of the jury’s verdict, the circumstances proved include Kuek’s admission that she “was counting out pills in the apartment.”

In sum, Kuek’s alternative hypothesis that she was merely present at the apartment and did not possess the fentanyl is not a reasonable hypothesis other than guilt. We therefore conclude that the circumstantial evidence was sufficient to support the jury’s guilty verdict and the resulting conviction.

II.

Kuek also contends that, even if she admitted that she was “counting out” the fentanyl pills in the apartment, her confession alone was insufficient to sustain the verdict because there was no other evidence to corroborate her pill-counting confession.

“A confession of the defendant shall not be sufficient to warrant conviction without evidence that the offense charged has been committed” Minn. Stat. § 634.03 (2024). Section 634.03 represents a codification of the requirement that the corpus delicti, or the body of the crime, be established by evidence independent of a confession. *State v. Lalli*, 338 N.W.2d 419, 420 (Minn. 1983); *see State v. Hill*, 23 N.W.3d 824, 830 (Minn. 2025) (“Corpus delicti is Latin for the body of the crime.”) (quotations omitted)). The statute “generally requires the State to introduce evidence independent of an extrajudicial confession to prove that the confessed crime actually occurred.” *State v. Holl*, 966 N.W.2d 803, 809 (Minn. 2021) (quotation omitted). “It seeks to ensure the State has established

the occurrence of a crime before introducing the statements or confessions of the accused to demonstrate that the accused committed the crime.” *Id.* (quotation omitted). The limited purpose of the corpus delicti statute is “to avoid prosecutions for *nonexistent crimes* when the only evidence of the crime is a defendant’s confession.” *Hill*, 23 N.W.3d at 833 (emphasis added).

We recently summarized application of the “corpus delicti” statute as follows:

The plain language of the corpus delicti statute is satisfied when there is independent evidence that reasonably tends to prove the defendant committed the charged offense. The limited purpose of the corpus delicti statute is to avoid prosecutions for nonexistent crimes when the only evidence of the crime is a defendant’s confession, and the quantum of evidence necessary to achieve this limited purpose is not high. The State need not corroborate each individual element of the underlying offense, and circumstantial evidence can be sufficient to corroborate a defendant’s confession. Indeed, the corpus delicti statute imposes a lesser burden than the due process requirement for proof beyond a reasonable doubt.

State v. Mattson-McCarty, 30 N.W.2d 822, 827 (Minn. App. 2025) (quotations and citations omitted), *rev. denied* (Minn. Mar. 18, 2026).

When, as here, the district court did not instruct the jury regarding the need for corroboration of Kuek’s admission that she counted the fentanyl pills, we review application of the corpus delicti statute *de novo*. *See Holl*, 966 N.W.2d at 814 (“[B]ecause the jury was never presented with an instruction related to the corroboration requirement in section 634.03 and therefore did not consider whether the evidence was sufficient to satisfy the statute, it would be inappropriate to defer to the jury under a sufficiency of the evidence standard.”).

The state introduced evidence that Kuek was present in an apartment where 5,937 fentanyl pills were found throughout the apartment—including in one common area—during the execution of a search warrant. The state also presented evidence that Kuek knew the fentanyl pills were in the apartment and that Kuek’s purse contained paraphernalia consistent with fentanyl use. Here, the “body of the crime” is the fentanyl pills. Given that the limited purpose of the corpus delicti statute is to avoid prosecutions for nonexistent crimes, we discern no reason why the undisputed facts that Kuek was in an apartment with nearly 6,000 fentanyl pills—which established the commission of a crime—that she knew the pills were present, and that her purse contained fentanyl paraphernalia cannot corroborate Kuek’s admission that she counted the fentanyl pills.

In sum, the totality of the independent evidence establishes “by the necessary quantum—which is not high—that this was not a prosecution for a nonexistent crime based only on [Kuek’s] confession.” *Mattson-McCarty*, 30 N.W.2d at 828 (quotation omitted).

Affirmed.