

*This opinion is nonprecedential except as provided by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
A25-1046**

State of Minnesota,
Respondent,

vs.

Floyd Collins Josie, Jr.,
Appellant.

**Filed May 4, 2026
Affirmed
Reyes, Judge**

Mille Lacs County District Court
File No. 48-CR-21-744

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

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

Mark D. Kelly, Law Offices of Mark D. Kelly, St. Paul, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Reyes, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant argues that (1) the state presented insufficient evidence to sustain his conviction of first-degree possession of a controlled substance and (2) the district court abused its discretion by denying his motion for a downward dispositional departure. We affirm.

FACTS

In April 2021, respondent State of Minnesota charged appellant Floyd Collins Josie, Jr., with one count of fleeing a police officer in a motor vehicle in violation of Minnesota Statutes section 609.487, subdivision 3 (2020), and one count of first-degree possession of 50 grams or more of cocaine or methamphetamine in violation of Minnesota Statutes section 152.021, subdivision 2(a)(1) (2020).

The case proceeded to a three-day jury trial. After the state rested its case, appellant moved for a judgment of acquittal on the possession charge only. The district court denied appellant's motion.

The jury found appellant guilty on both counts. It also found that appellant possessed 100 or more grams of a mixture containing the controlled substance at issue. Based on that finding and appellant's prior controlled-substance conviction, his possession conviction carried a mandatory minimum sentence of "65 months or the presumptive fixed sentence under the Minnesota Sentencing Guidelines, whichever is greater." Minn. Stat. § 152.021, subd. 3(c) (2020). The presumptive fixed sentence for appellant under the Minnesota Sentencing Guidelines was 85 months. Minn. Sent'g Guidelines 4.C (2020).

Appellant moved for a downward dispositional departure from the presumptive sentence. Appellant also argued that the mandatory-minimum statute provided the district court with discretion to, on its own initiative, sentence below the mandatory minimum. The district court "considered the arguments, reviewed the record, reviewed the presentence investigation report, [and] underst[ood] the arguments."

The district court adjudicated appellant guilty on both counts, but sentenced appellant on the possession conviction only. It imposed the presumptive sentence of 85 months in prison for the offense based on appellant’s criminal history score of two, with credit for time served. *See* Minn. Sent’g Guidelines 4.C (2020).

This appeal follows.

DECISION

Appellant argues that (1) the state presented insufficient evidence to sustain his conviction of first-degree possession of a controlled substance and (2) the district court abused its discretion by denying his motion for a downward dispositional departure. We address each argument in turn.

I. The state presented sufficient evidence to support the conviction of first-degree possession of a controlled substance.

Appellant argues that the circumstantial evidence presented at trial regarding his possession conviction “failed to lead to no rational inference other than appellant’s guilt.”¹ Appellant’s argument is unavailing.

“[I]n order to convict a defendant of unlawful possession of a controlled substance, the state must prove that [the] defendant consciously possessed, either physically or constructively, the substance” *State v. Lyons*, 997 N.W.2d 771, 776 (Minn. App. 2023) (quotation omitted), *rev. denied* (Minn. Feb. 28, 2024). Constructive possession applies when “the state cannot prove actual or physical possession at the time of arrest, but

¹ Although appellant moved for a judgment of acquittal after the state rested its case, we understand appellant’s argument to be a challenge to the sufficiency of the evidence and not the district court’s denial of his motion.

... the inference is strong that the defendant at one time physically possessed the item.” *State v. Salyers*, 858 N.W.2d 156, 159 (Minn. 2015) (quotation omitted). The state may establish constructive possession by showing “that the prohibited item was found in a place under defendant’s exclusive control to which other people did not normally have access.” *Id.* (quotation omitted). But “if the prohibited item was found in a place to which others had access,” the state must show that “there is a strong probability (inferable from other evidence) that defendant was at the time consciously exercising dominion and control over it.” *Id.* (quotations omitted).

“When an appellant challenges the sufficiency of the evidence, [appellate courts] review the evidence to determine whether, given the facts in the record and the legitimate inferences that can be drawn from those facts, a jury could reasonably conclude that the defendant was guilty of the offense charged.” *State v. Smith*, 9 N.W.3d 543, 564-65 (Minn. 2024) (quotation omitted). We defer to the jury’s assessment of the credibility of evidence as well as its weighing of evidence. *State v. Firkus*, 31 N.W.3d 468, 479 (Minn. 2026).

The first step of the circumstantial-evidence analysis “requires [appellate courts] to 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 478 (quotations omitted). Appellate courts “consider only those circumstances that are consistent with the verdict” and “assume that the jury believed the State’s witnesses and disbelieved the defense witnesses.” *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013) (quotation omitted). “The phrase ‘circumstances proved’ does not mean ‘every circumstance as to which there may be some testimony in the case’; rather, it

refers only to those ‘circumstances as the jury finds proved by the evidence.’” *State v. Tschau*, 758 N.W.2d 849, 857-58 (Minn. 2008) (quoting *State v. Johnson*, 217 N.W. 683, 684 (Minn. 1928)).

The second step of the circumstantial-evidence analysis requires appellate courts to “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.” *Firkus*, 31 N.W.3d at 478 (quotations omitted).

Here, the evidence presented at trial includes testimony from Deputies M. and S.; body-worn camera footage of appellant fleeing in a motor vehicle; body-worn camera footage of the discovery of a bag of methamphetamine in the road; and photographs of the methamphetamine and the location in which it was found. We draw the following circumstances proved from this evidence:

- Appellant pulled over when Deputy M. initiated a traffic stop but fled after the deputy exited his vehicle.
- After driving up to 100 miles per hour, appellant began to slow down near an intersection and eventually pulled over.
- Deputy S. drove up to 130 miles per hour to catch up with Deputy M. and appellant. At that time, Deputy S. drove through the intersection near where he later found the bag of methamphetamine but did not see the bag.
- After appellant pulled over and Deputy S. arrived, Deputy S. assisted with appellant’s arrest, which took five to ten minutes. Deputy S. then conducted a vehicle search and waited thirty minutes to one hour for a tow truck to take possession of appellant’s vehicle.

- Deputy S. then “retraced the steps of the pursuit” and found in the road a large plastic bag containing a white substance. A gap of 45 minutes to an hour and a half separated this discovery from his earlier drive through the intersection.
- The intersection near where Deputy S. found the bag was the same intersection near where appellant, during the pursuit, slowed from 100 miles per hour to 30 to 40 miles per hour.
- Methamphetamine, the substance within the bag, is fragile and easily broken. When the deputy found the bag, it did not look like it had been run over by a vehicle and the substance within included “larger-size[,] . . . well-formed crystals.”
- A light rain preceded appellant’s arrest. When Deputy S. found the bag on the road, the road was still wet, but the bag was dry.
- Deputy S. did not observe any vehicle near the location in which he found the bag.
- The traffic stop and arrest occurred in the evening. No streetlamps or buildings line the road where the bag was found. A tree line borders at least one part of the road.

For the constructive-possession element of appellant’s conviction of possession of a controlled substance, the state needed to prove that “there is a strong probability (inferable from other evidence) that [appellant] was at the time consciously exercising dominion and control over it.” *Salyers*, 858 N.W.2d at 159 (quotation omitted). Appellant led police on a vehicle pursuit, reaching his lowest speed during the pursuit at the same location in which the deputy found the bag of methamphetamine. The bag was dry and the methamphetamine intact, indicating that the bag had not been on the ground for long.

Deputy S. saw no other vehicle in the area, and he testified that he believed that appellant placed the bag on the road. The circumstances proved support only one reasonable inference: that only appellant exercised dominion and control over the bag of methamphetamine prior to depositing it on the road. We conclude that the state presented sufficient evidence to prove that appellant possessed 50 or more grams of cocaine or methamphetamine in violation of Minnesota Statutes section 152.021, subdivision 2(a)(1), and the circumstances proved support no rational hypothesis other than guilt.

II. The district court did not abuse its discretion by denying appellant's motion for a downward dispositional departure.

Appellant next argues that the district court abused its discretion by denying his motion for a downward dispositional departure, asserting that he “is particularly amenable to probation and not subject to the mandatory minimum” provided in Minnesota Statutes section 152.021, subdivision 3(c). We are not persuaded.

Appellate courts review a district court's sentencing decision for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). A district court must pronounce a sentence within the range provided by the Minnesota Sentencing Guidelines “unless there exist identifiable, substantial, and compelling circumstances” warranting a departure. *Id.* (quotation omitted). A sentence within that range is a presumptive sentence, which this court rarely reverses. *See State v. Olson*, 765 N.W.2d 662, 664 (Minn. App. 2009) (“Only in a rare case will a reviewing court reverse a district court's imposition of the presumptive sentence.” (quotation omitted)). We also “may not interfere with the [district] court's exercise of discretion, as long as the record shows the [district] court

carefully evaluated all the testimony and information presented before making a determination.” *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011) (quotation omitted).

As stated above, the mandatory minimum statute subjected appellant to a minimum sentence of “65 months or the presumptive fixed sentence under the Minnesota Sentencing Guidelines, whichever is greater.” Minn. Stat. § 152.021, subd. 3(c). And the presumptive fixed sentence was 85 months. Minn. Sent’g Guidelines 4.C.

Appellant moved for a downward dispositional departure from the presumptive sentence based on his: (1) advanced age and poor health, making a long sentence effectively “a death sentence”; (2) health conditions that would preclude him from “participat[ing] in programming” while incarcerated; (3) military service and related mental-health conditions and struggles with substance use; (4) possession of “just over” 100 grams of methamphetamine, meaning that the state’s requested sentence of 102 months effectively assigned one month in prison to each gram; and (4) “protracted period of sobriety and contentment [through] . . . counseling [that] establish[es] that he is amenable [to probation].”

The district court imposed the presumptive sentence of 85 months, and we decline to disturb that sentence. The district court stated that it considered all information presented to it before imposing the presumptive sentence. This included appellant’s argument about his amenability to probation as well as a PSI report that listed treatment options provided by the Minnesota Department of Veterans Affairs, as permitted by Minnesota Statutes section 609.115, subdivision 10(b) (2020).

Appellant also asks this court to determine the district court's authority under the mandatory-minimum statute. The district court declined to reach the issue, and so do we, because the district court imposed a presumptive sentence that does not conflict with the mandatory-minimum statute.

Affirmed.