

*This opinion is nonprecedential except as provided by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
A25-1269**

State of Minnesota,
Respondent,

vs.

Stephanie Hope Smith,
Appellant.

**Filed June 8, 2026
Affirmed
Beane, Judge**

Scott County District Court
File No. 70-CR-22-8044

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

Ronald Hocesvar, Scott County Attorney, Michael Hayek, Assistant County Attorney,
Shakopee, Minnesota (for respondent)

Stephen Foertsch, Samantha Foertsch, Bruno Law, PLLC, Golden Valley, Minnesota (for
appellant)

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

NONPRECEDENTIAL OPINION

BEANE, Judge

In this direct appeal from the final judgment of conviction for mistreatment of animals, appellant Stephanie Hope Smith challenges the district court's order denying her motion to suppress evidence found during multiple searches of a barn where she kept

rabbits. Smith also argues that respondent State of Minnesota presented insufficient evidence to prove beyond a reasonable doubt that she mistreated animals by failing to provide a change of air for the rabbits. We affirm.

FACTS

Smith operated a nonprofit rabbit rescue in a section of a barn she rented from the barn's owner. The owner, a former volunteer with Smith's nonprofit, had purchased the barn and the surrounding property with the intention of allowing Smith to continue operating the rabbit rescue. Smith and the owner entered into a lease agreement on June 10, 2022, under which Smith would rent two-thirds of the barn and the owner would retain the remaining third. To create that division in the barn, plastic tarps were hung from the ceiling rafters.

Shortly after executing the lease agreement, the owner found a rabbit on her side of the barn that had escaped from Smith's side. When the owner returned the escaped rabbit to Smith's side of the barn, the owner became concerned about Smith's rabbits. The owner saw dead rabbits, rabbits with apparent medical issues or injuries, empty water containers, and rabbits escaping their enclosures. The owner noted a strong smell of feces and urine inside the barn.

A few days later, the owner contacted the Minnesota Federated Humane Societies (MFHS)—a nonprofit corporation created by statute but operated independently of the state, *see* Minn. Stat. § 343.01, subds. 1, 1b (2024)—for guidance on appropriate rabbit care. The owner told an MFHS investigator that she saw dead rabbits, rabbits with cuts on their ears, rabbits without water, piles of feces, rabbits burrowing into those piles, and other

“possibly unsanitary conditions.” She also stated that the “smell [in the barn] made her eyes water.” The owner contacted MFHS again a few days later, on June 27, asking if the investigator could stop by because, while volunteers with the nonprofit were in the barn, the owner “could see all the way back [into Smith’s side of the barn] and was disturbed by what she saw and smelled.” MFHS agreed to investigate the owner’s concerns and contacted a private rabbit rescue group for assistance.

Representatives from both groups arrived at the barn later that day, and the owner allowed them to enter her side of the barn. The MFHS investigator noted that “[t]he tarp that had once divided the spaces was on the ground.” The MFHS investigator observed the following while in the barn: “an overpowering smell of rabbit urine and feces,” the smell of “moldy straw,” “rabbit feces everywhere on the grounds and on surfaces and in boxes,” “flies buzzing around,” “[two] operational fans,” rabbits in the owner’s side of the barn, a rabbit with “its head tilted as if it were injured or possibly sick,” young rabbits that “did not appear to be okay,” “rabbits going in and out from under the concrete floors,” several rabbits breathing abnormally, several rabbit cages without water, a rabbit with a potential eye condition, rabbits with other apparent medical needs, and unsecured enclosures. The MFHS investigator also noted generally that “[e]verything appeared dirty and unkempt.” After investigating for about an hour, the MFHS investigator called 911.

Community Service Officer Z.J. and an investigator from 4Paws Animal Control, which has a contract with the city to provide animal-control services, were dispatched to the barn. The 4Paws investigator searched the barn and found two rabbits in need of immediate veterinary care, one of which died later that day. The 4Paws investigator told

an officer at the scene that she observed a “god awful smell” in the barn, some rabbits with respiratory issues, a rabbit “with a massive eye wound,” “dreadful cage conditions that were filthy,” and many rabbits experiencing “heat distress and dehydration.”

While driving to the barn, Officer Z.J. contacted an investigator from the Animal Humane Society (AHS) (the AHS agent) to discuss “all the possible scenarios that [she] could encounter.” The AHS agent said that he would be at the scene later that day. Upon arriving at the barn, Officer Z.J. met with the owner, who shared information about the rabbits and the conditions inside. Officer Z.J. then learned that the MFHS investigator had been on scene and inside the barn for over an hour. The owner led Officer Z.J. and another officer to the barn, where they entered through a door on the owner’s side. Footage from Officer Z.J.’s body-worn camera (BWC) shows the dividing tarp was partially down when she entered the barn. Officer Z.J. and the other officer then crossed from the owner’s side of the barn to Smith’s side.

Officer Z.J. did not make many immediate observations recorded on her BWC, but her initial report noted rabbits “running loose in the barn,” the overwhelming “smell of feces and urine,” “rabbit feces all over the floor,” a rabbit with eye discharge, empty food and water bowls, dirty water in water troughs, and rabbit feces in the feeding bowls. Another officer reported, “Immediately upon entry, I could smell a horrific smell that was a combination of death, feces, and other unknown foul odors. I put a N95 mask on, but even with the mask on, the smell was unbearable and I eventually had to leave the barn.” He also noted that the floor was covered in rabbit feces. Officer Z.J.’s BWC footage shows a running fan that is visible immediately upon her entry into the owner’s side of the barn.

After walking through Smith's side and taking pictures for about ten minutes, Officer Z.J. directed everyone to leave the barn. About one hour later, the AHS agent arrived and interviewed the owner.

Several hours later, volunteers with Smith's nonprofit arrived to perform their chores. When asked by an officer and the AHS agent, one volunteer said that they had not noticed sick or dead rabbits while performing chores that morning or previously. The volunteers were allowed to complete their chores under law-enforcement supervision. Those chores included feeding and watering the rabbits and opening the barn's doors. The property was then secured, and an officer was posted overnight.

The next morning, on June 28, law enforcement obtained a search warrant for the barn. The warrant application included information from the animal-welfare groups, the lease agreement, and a summary of the owner's observations. That summary stated:

[The owner] stated she had not heard from [Smith] for several days so she went to the property to check on the animals. When [the owner] entered the barn she found 200+ animals in various states of health. Some of the animals were dead and others were sick and possibly injured.

Law enforcement, accompanied by the AHS agent and veterinarians, executed the search warrant. The veterinarians secured two sick rabbits and 16 baby rabbits for further care. They also found an estimated 30 to 40 dead rabbits in various stages of decomposition. Two rabbits were euthanized on scene. In its report, AHS noted that the rabbits were "living in unsanitary conditions with urine-soaked hay and feces throughout the space," "[t]here was a heavy ammonia smell due to lack of ventilation and temperatures

were uncontrolled,” and “[f]ans were present on site but not plugged in and covered in dust and cobwebs.”

The state charged Smith with 13 counts of overwork or mistreatment of animals under Minnesota Statutes section 343.21 (2020) related to the conditions in which she kept the rabbits. Smith moved to suppress evidence obtained during both the warrantless June 27 search and the warranted June 28 search and to dismiss the charges against her for lack of probable cause. The district court denied Smith’s motion to suppress evidence but granted the motion to dismiss as to three counts. The state then amended its complaint to reflect the ten remaining counts. The case proceeded to an eight-day bench trial, during which the district court heard testimony from 14 witnesses and received more than 160 exhibits. After the state’s case-in-chief, Smith moved for judgment of acquittal. The district court then acquitted Smith of four counts. Following trial, the district court found Smith not guilty of five of the remaining six counts but convicted her of a single misdemeanor count of mistreatment of animals by providing an unwholesome enclosure under Minnesota Statutes section 343.21, subdivision 3.

Smith appeals.

DECISION

I.

Smith first argues that her conviction must be reversed because the district court erred by denying her motion to suppress evidence obtained during the June 27 and 28 searches of the barn. She contends that those searches violated her constitutional right to

be free from unreasonable searches because they were conducted without a valid warrant and without a valid exception to the warrant requirement.

The United States and Minnesota Constitutions protect “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. “A warrantless search is generally unreasonable, unless it falls into one of the recognized exceptions to the warrant requirement.” *State v. Bernard*, 859 N.W.2d 762, 766 (Minn. 2015). “Evidence obtained from an unreasonable search in violation of the Fourth Amendment is inadmissible.” *State v. Rohde*, 852 N.W.2d 260, 263 (Minn. 2014). When reviewing a pretrial order on a motion to suppress evidence, we review the district court’s factual findings for clear error and the court’s legal determinations de novo. *State v. Milton*, 821 N.W.2d 789, 798 (Minn. 2012).

Although law enforcement obtained a warrant for the June 28 search, Smith contends that the warrant was invalid because it was based on information provided by the barn owner and animal-welfare groups, who were acting as agents of the government. Smith also argues that any evidence of the conditions in the barn and health of the rabbits collected by both law enforcement and animal-welfare groups during the warrantless June 27 search should have been suppressed because no exception to the warrant requirement applies. We address each of these issues in turn.

A.

We first consider the validity of the June 28 search warrant. Smith contends the warrant was not valid because it was supported by evidence unlawfully obtained during the June 27 searches. The state counters that the facts supporting probable cause for the June 28

search warrant were provided by private parties whose information gathering was not subject to constitutional limitations.

A search warrant may not be issued except upon probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Probable cause exists when there is a “fair probability that contraband or evidence of a crime will be found in a particular place.” *State v. Wiggins*, 4 N.W.3d 138, 145 (Minn. 2024) (quotation omitted). “This is a common-sense, nontechnical concept that involves the factual and practical considerations of everyday life on which reasonable and prudent people, not legal technicians, act.” *State v. Torgerson*, 995 N.W.2d 164, 169 (Minn. 2023) (quotations omitted). When reviewing a decision to issue a search warrant, “our only consideration is whether the issuing judge had a substantial basis for concluding that probable cause existed.” *State v. Fawcett*, 884 N.W.2d 380, 384 (Minn. 2016) (quotation omitted).

To establish probable cause to search the barn, the search-warrant application included statements from two witnesses: (1) the barn owner and (2) the MFHS investigator who searched the barn before law enforcement’s arrival on June 27. The search-warrant application also included a brief description of other animal-welfare groups’ activities at the scene. But the search-warrant application did not rely on any information provided by law-enforcement officers who were present during the June 27 search.

The barn owner’s statement included in the warrant application was that she “had not heard from [the rabbit rescue] for several days,” so she went to the barn, where she personally observed “200+ animals in various states of health. Some of the animals were dead and others were sick and possibly injured.” Smith contends that this “brief,

uncorroborated” statement is inadequate to establish probable cause and “could very well describe any other type of farm or animal rescue dedicated to caring for animals in varying degrees of age, health, etc.” We disagree. Observations that unattended rabbits were in medical distress and some were already dead established a fair probability of animal mistreatment in the barn. In that respect, the reasoning in our nonprecedential decision *State v. Fitzgerald*, No. C2-00-666, 2000 WL 1664883 (Minn. App. Nov. 7, 2000), is persuasive.¹ In *Fitzgerald*, we reasoned that a search warrant for a residence was supported by probable cause because it was based on personal observations of possible mistreatment of animals, including a neighbor’s observations of four dogs in defendant’s yard, “an estimated twenty dogs barking inside the house,” law-enforcement observations of a van loaded with animal carriers and the “strong smell of feces coming from the property,” and a complaint of six dogs barking in the defendant’s backyard. 2000 WL 1664883, at *2. Whereas the warrant in *Fitzgerald* was supported solely by statements indicating the presence of a large number of dogs on the property, the barn owner’s statement here contains more. The owner indicated not only that she had directly observed a large number of unattended animals but also that many of those animals were in poor health or distress. These observations were sufficient to establish probable cause for the search warrant.

If the owner’s statement had not been enough, the MFHS investigator’s statement further supported probable cause. But Smith argues that any information collected by the MFHS investigator on June 27 should have been suppressed, and therefore excluded as

¹ Nonprecedential opinions are not binding but “may be cited as persuasive authority.” Minn. R. Civ. App. P. 136.01, subd. 1(c).

support for the warrant, because the MFHS investigator was acting as a government agent and was subject to constitutional requirements. Again, we disagree.

A private party cannot violate the constitution, so a search conducted by a private party that would be unreasonable if conducted by law enforcement “will not result in evidence seized being suppressed.” *State v. Buswell*, 460 N.W.2d 614, 617-18 (Minn. 1990). But whether a private party should be deemed an agent of the government for Fourth Amendment purposes depends on “(a) whether the State knew of and acquiesced in the search; and (b) whether the search was conducted to assist law enforcement’s interests or the interests of the private party.” *State v. Pauli*, 979 N.W.2d 39, 51 (Minn. 2022). “If the government does not know of and acquiesce in the search, the search cannot be attributed to the government and the inquiry ends.” *State v. Jorgensen*, 660 N.W.2d 127, 131 (Minn. 2003). The barn owner contacted the MFHS investigator directly and asked her to come to the barn. The MFHS investigator arrived at the barn before law enforcement and conducted much of her investigation before law enforcement arrived. In fact, it was the MFHS investigator who ultimately contacted law enforcement. The record contains no indication that law enforcement was aware of or acquiesced in the MFHS investigator’s search. Consequently, that search cannot be attributed to the government, and the Fourth Amendment does not apply to the MFHS investigator’s search.

Because the issuing judge had a substantial basis for concluding that probable cause existed, the district court did not err in denying Smith’s motion to suppress evidence discovered pursuant to the June 28 search warrant.

B.

We next consider whether evidence obtained during law enforcement's warrantless June 27 search should have been suppressed. Smith contends that all the evidence of the conditions in the barn and health of the rabbits collected on June 27 by both law enforcement and the animal-welfare groups violated her Fourth Amendment rights and should be suppressed. The state argues, consistent with the district court's conclusion, that evidence obtained without a warrant on June 27 was admissible under the inevitable-discovery doctrine, and alternatively, that an exception to the warrant requirement applies.

The inevitable-discovery doctrine is an exception to the exclusionary rule rather than the warrant requirement; that is, when the inevitable-discovery doctrine applies, evidence seized in violation of the warrant requirement need not be excluded at trial. *State v. Steeprock*, 28 N.W.3d 417, 433 (Minn. 2025). "If the state can establish by a preponderance of the evidence that the fruits of a challenged search 'ultimately or inevitably would have been discovered by lawful means,' then the seized evidence is admissible even if the search violated the warrant requirement." *State v. Licari*, 659 N.W.2d 243, 254 (Minn. 2003) (quoting *Nix v. Williams*, 467 U.S. 431, 444 (1984)). "The inevitable discovery doctrine involves no speculative elements but focuses on demonstrated historical facts capable of ready verification or impeachment." *Id.* (quotation omitted). The state bears the burden to show the inevitable-discovery exception applies. *State v. Diede*, 795 N.W.2d 836, 849-50 (Minn. 2011). Appellate courts review the district court's factual findings for clear error and its legal determinations de novo. *State v. Stavish*, 868 N.W.2d 670, 677 (Minn. 2015).

The record supports that conditions in the barn remained unchanged between June 27 and 28, and even if not for their June 27 warrantless search, law enforcement would inevitably have discovered those conditions when they executed the June 28 search warrant. The district court found that the barn was secured by law enforcement overnight on June 27, and the volunteers were closely supervised by law enforcement while performing their evening chores. The heat and odor inside the barn remained unchanged between June 27 and June 28, and the witnesses from law enforcement and the animal-welfare groups who searched the barn on June 27 and June 28 noted a strong odor of feces and urine on both days. Any evidence related to air ventilation, whether permanently attached features of the barn's structure or floor fans in and around Smith's side of the barn, was visible and accessible on June 27 and remained so the next day. Smith has not pointed to any evidence in the record from which we could conclude that the district court's findings were clearly erroneous. Based on its factual findings, the district court determined that the inevitable-discovery doctrine applies. We agree. That is, assuming law enforcement's challenged June 27 search of the barn was unlawful, we nevertheless conclude that the state proved by a preponderance of the evidence that the evidence of inadequate ventilation would inevitably have been discovered during the warranted June 28 search.

Smith contends that "the ultimate discovery of the evidence at issue came only after a search warrant based almost entirely on that unlawfully obtained evidence." In other words, Smith argues that the June 28 warrant was unsupported by lawfully obtained information, so the state cannot show that the fruits of the search would have been

“ultimately or inevitably . . . discovered by lawful means.” *See Licari*, 659 N.W.2d at 254 (quotation omitted). Smith does not otherwise dispute the applicability of the inevitable-discovery doctrine. Having already concluded that the June 28 warrant was supported by probable cause independent of law enforcement’s observations on June 27, we further conclude that the district court did not err in determining that the conditions in the barn on June 27 would inevitably have been discovered on June 28 and that the evidence collected by law enforcement on June 27 is admissible.

Because we conclude that the inevitable-discovery doctrine applies, we need not address the parties’ alternative arguments as to whether an exception to the warrant requirement might apply. *See State v. Schell*, 994 N.W.2d 326, 330 n.1 (Minn. App. 2023), *rev. denied* (Minn. Oct. 25, 2023).

II.

Smith next argues that her conviction must be reversed because the evidence presented at trial was insufficient to prove beyond a reasonable doubt that she did not provide an adequate change of air in the barn on June 27. The parties dispute whether the standard of review for circumstantial or direct evidence applies. Smith contends that, because the state relied on both direct and circumstantial evidence to prove an inadequate change of air in the barn, we should apply the circumstantial-evidence standard of review. But if an element was sufficiently supported by direct evidence, even if circumstantial evidence also exists, the traditional direct-evidence standard applies, and we need not engage in a review under the heightened circumstantial-evidence standard. *See State v. Flowers*, 788 N.W.2d 120, 133 n.2 (Minn. 2010). Testimony based on the personal

knowledge and observations of witnesses constitutes direct evidence. *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017); *see also Bernhardt v. State*, 684 N.W.2d 465, 477 n.11 (Minn. 2004) (defining direct evidence as “evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption” (quotation omitted)). Here, multiple witnesses testified to their observations of the conditions inside the barn, including the lack of ventilation. That testimony is direct evidence, so if that evidence is sufficient to support the conviction, we need not address the circumstantial-evidence standard.

When reviewing the sufficiency of direct evidence to prove an element of an offense, 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 [fact-finder] to reach the verdict which they did.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016). We assume that “the fact-finder disbelieved any testimony conflicting with that verdict.” *State v. Jones*, 977 N.W.2d 177, 187 (Minn. 2022). Accordingly, we “will not overturn a verdict if, giving due regard to the presumption of innocence and to the [state’s] burden of proving guilt beyond a reasonable doubt, the [fact-finder] could reasonably have found the defendant guilty of the charged offense.” *State v. Cruz*, 997 N.W.2d 537, 551 (Minn. 2023) (quotation omitted). We apply the same standard of review to a sufficiency-of-the-evidence challenge following a bench trial as applied following a jury trial. *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009).

To obtain a conviction under the unwholesome-enclosure statute, the state had to prove that Smith kept an “animal in any enclosure without providing wholesome exercise

and change of air.”² Minn. Stat. § 343.21, subd. 3. The state offered direct evidence that Smith failed to provide a change of air in the form of testimony from the barn owner, law-enforcement officers, the AHS agent, veterinarians, and other witnesses that the barn lacked adequate ventilation on June 27.

The barn owner testified about the ongoing issues related to the smell coming from Smith’s side of the barn, the fact that the barn was usually closed and locked, and the lack of a ventilation system installed in the barn for the exchange of air. The owner further testified that she contacted MFHS about her concerns, that she showed the investigator her side of the barn, that the inside of the barn smelled like manure, and that “the smell of urine was very strong.” She also testified that the barn had doors and windows, but they were often closed; that an overhead door was sometimes opened for circulation; that some standing circular fans were on; and that the barn was completely sealed when no one was there.

Other witnesses who personally observed the conditions in the barn also testified to the lack of ventilation. Officer Z.J. testified that “there [were] no open windows. The ventilation was poor,” and there was “just one ceiling fan in the top of the barn.” And

² We have addressed this statutory provision on only one other occasion, in our nonprecedential decision in *State v. Johnson*, No. A22-1711, 2023 WL 7122598 (Minn. App. Oct. 30, 2023), *rev. denied* (Minn. Jan. 16, 2024). In *Johnson*, we explained that direct evidence supported the defendant’s conviction of depriving animals of an adequate change of air based on testimony from multiple witnesses as to “the conditions of the animal enclosures.” *Johnson*, 2023 WL 7122598, at *4. Although we are not bound by *Johnson*, we likewise conclude here that witness testimony regarding personal observations of the animal enclosures at issue constitutes direct evidence of whether the animals were provided “change of air.”

although the ceiling fan was running when she entered the barn, no other fans were running. Later, Officer Z.J. testified that, from outside the barn, she could not recall hearing a fan running and most of the windows were sealed, though she agreed that a fan can be heard in the footage from her BWC. The AHS agent testified that “most of the fans and capability of ventilation weren’t being utilized”; the smell, heat, humidity, and amount of ammonia in the air suggested a lack of ventilation; and there “didn’t appear to be any available mechanical [ventilation].” One of the veterinarians assisting law enforcement with the June 28 search observed that “[t]he barn itself was warm and muggy. There was no ventilation going. There [were] no fans going.” Although Smith did not testify, Officer Z.J.’s BWC recorded her stating that the barn needed more ventilation and that she intended to renovate the barn for that purpose.

Viewing this evidence in the light most favorable to the verdict, we assume the district court believed the testimony that the barn lacked adequate ventilation and “disbelieved any evidence to the contrary.” *See State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). The personal observations of multiple witnesses that the barn lacked ventilation or had only minimal ventilation are direct evidence that Smith failed to provide an adequate change of air for the rabbits she kept in the barn. These observations are strengthened by Smith’s recorded acknowledgment that the barn needed more ventilation. We therefore conclude that the state proved beyond a reasonable doubt that Smith provided an unwholesome enclosure because she deprived the rabbits of a change of air. And because direct evidence sufficiently supports the conviction, we need not apply the circumstantial-evidence standard. *See Flowers*, 788 N.W.2d at 133 n.2.

Smith contends the state’s evidence is insufficient because witnesses testified inconsistently about the odor and heat in the barn, the district court wrongly disregarded air-quality readings, and the district court failed to adequately consider that Smith directed trained volunteers to complete chores to care for the rabbits in her absence. But these arguments ask us to substitute our own judgment regarding the credibility of witnesses for that of the district court and to reweigh the evidence, which we cannot do. *See State v. Isaac*, 9 N.W.3d 812, 815 (Minn. 2024). Thus, these arguments are not a basis on which we can conclude that the evidence presented was insufficient to support Smith’s conviction.³

Affirmed.

³ Smith separately argues that the district court erred in denying her motion to dismiss the complaint for lack of probable cause. But such an argument is “irrelevant” in an appeal after trial because the standard of review for sufficiency of the evidence to support the conviction is much higher than probable cause. *State v. Holmberg*, 527 N.W.2d 100, 103 (Minn. App. 1995) (citing *State ex rel. Hastings v. Bailey*, 116 N.W.2d 548, 551 (Minn. 1962)), *rev. denied* (Minn. Mar. 21, 1995). We therefore do not address Smith’s probable-cause argument.