

*This opinion is nonprecedential except as provided by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
A25-1406**

State of Minnesota,
Respondent,

vs.

Gerald Cortez Owens,
Appellant.

**Filed July 20, 2026
Affirmed
Harris, Judge**

Olmsted County District Court
File No. 55-CR-22-6510

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

Michael T. Walters, Olmsted County Attorney, James E. Haase, Assistant County Attorney, Grant Magnuson (certified student attorney), Rochester, Minnesota (for respondent)

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

Considered and decided by Larson, Presiding Judge; Harris, Judge; and Halbrooks, Judge.*

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

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this direct appeal from the convictions of receiving stolen property and possession of a firearm or ammunition by an ineligible person, appellant argues that the evidence was insufficient to prove beyond a reasonable doubt that he knowingly possessed or concealed a stolen handgun found in a backpack left in a parking lot. Because the evidence is sufficient to support Owens's convictions, we affirm.

FACTS

Respondent State of Minnesota charged appellant Gerald Cortez Owens with receiving stolen property and possession of a firearm or ammunition by an ineligible person under Minnesota Statutes sections 609.53, subdivision 1, and 624.713, subdivision 1(2) (2020). The matter proceeded to a jury trial which resulted in a deadlocked jury, and the district court declared a mistrial. A second jury trial took place, and the facts below summarize the evidence from that trial in a light most favorable to the jury's verdict.

In May 2022, S.V. spent the night out with friends at a bar in downtown Rochester. S.V. parked his car in a parking lot located less than a block away from the bar. S.V. left a black bag in the car containing welding supplies, credit and debit cards, motorcycle keys, and mail. S.V. also had a black gun case on the front passenger floorboard containing a .40-caliber handgun, two full magazines, and a lock. When S.V. returned to his car later that evening, he observed shattered glass near the passenger-side door and realized that his car had been broken into. S.V. peered into the car and saw that his bag and gun case were missing. S.V. immediately reported the theft to law enforcement.

The next morning, police received a call from a nearby Salvation Army day shelter, stating that one of its patrons found a red backpack left in the parking lot with a handgun inside. The patron removed the gun case from the backpack, wrapped it in a towel, and placed it on the ground. The patron then brought the red backpack inside and gave it to a staff member. When police arrived, the patron pointed toward the gun case wrapped in the towel. When officers opened the case, they found a .40-caliber handgun inside. The hammer was cocked back, and the safety was off. The gun case also contained a gun lock and two magazines, only one of which was fully loaded with ammunition. The serial number found on the handgun matched the serial number S.V. provided to police.

Staff at the Salvation Army notified police that a man entered the building looking for his backpack. Staff stated that they wanted the man removed. The man was identified as Owens. When police approached Owens, he told them that someone “stole [his] bag” and that he “didn’t still [sic] nobody’s sh-t.” Police escorted Owens out of the building and asked him if he owned the red backpack. Owens claimed ownership of the red backpack, stating that it contained his clothing. Owens denied possessing a handgun.

Police searched the backpack and found a set of keys and welding supplies that belonged to S.V. Police also found personal items, including socks and damp clothing. Police conducted a pat-down search of Owens and found a spent .40-caliber shell casing, as well as S.V.’s credit and debit cards. Police later testified that the bullet casing found

in Owens's pocket could have been fired from a .40-caliber handgun.¹ The .40-caliber handgun can only fire .40-caliber bullets.

Police collected DNA samples from the handgun and from Owens. The Minnesota Bureau of Criminal Apprehension (BCA) tested the DNA and reported its findings. A BCA forensic scientist determined that the DNA mixture on the handgun originated from four individuals, and that Owens was a possible contributor to that mixture. The forensic scientist tested two hypotheses to determine the likelihood that Owens's DNA was present on the handgun and concluded that "the probability of observing this DNA mixture is 85 billion times more likely if Mr. Owens and three unknown, unrelated individuals are the source than if four unknown, unrelated individuals are the source."² Based on this hypothesis, the forensic scientist determined that Owens could have contributed 26% of the total amount of DNA found in the sample.

At trial, the district court instructed the jury to determine whether Owens received stolen property, and if so, whether the stolen property was a firearm. As for the second

¹ Testimony from the officer established that the spent shell casing "could" have been fired from S.V.'s firearm. But the state presented no evidence that the casing and firearm were forensically examined to determine whether the casing was in fact fired from that firearm.

² When a DNA sample contains a mixture of profiles from more than one contributor, the BCA uses a computer software program known as STRmix to interpret the mixture. According to the BCA analyst, STRmix takes "the data that was generated from the DNA profiling process and then put[s] that into a computer, which uses biological modeling and certain algorithms to help model what [is] observed in the evidence." STRmix then assigns likely genotypes to each contributor within the DNA mixture and calculates the relative proportion of DNA attributable to each contributor. Finally, STRmix generates an interpretation report that provides "an understanding of how well it performed and how accurately—or how close to the observed data—the model" fits the DNA evidence.

count, the parties stipulated that Owens was ineligible to possess a firearm, so the only issue the jury considered was whether Owens knowingly possessed the firearm. The jury found Owens guilty on both counts and determined that the stolen property was a firearm.

Owens appeals.

DECISION

I. The evidence is sufficient to support Owens’s conviction of unlawful possession of a firearm.

Owens argues that the circumstantial evidence offered by the state is insufficient to prove beyond a reasonable doubt that he knowingly possessed the handgun found in his backpack, which was left in the Salvation Army parking lot.

“Possession may be proved through evidence of actual or constructive possession.” *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). “There are two methods by which the State may prove constructive possession.” *Id.* Constructive possession may be established if the item is found “in a place under [the] defendant’s exclusive control to which other people [do] not normally have access.” *State v. Florine*, 226 N.W.2d 609, 611 (Minn. 1975). Alternatively, if the item is found in a place where others had access, constructive possession may be proven if “there is a strong probability (inferable from other evidence) that at the time[,] the defendant was consciously or knowingly exercising dominion and control over it.” *Harris*, 895 N.W.2d at 601; *see also Florine*, 226 N.W.2d at 611.

To convict Owens of ineligible possession of a firearm, the state must also prove that he *knowingly* possessed the firearm. *Harris*, 895 N.W.2d at 601. Knowledge is generally proved through circumstantial evidence. *State v. Al-Naseer*, 734 N.W.2d 679,

688 (Minn. 2007). If a conviction rests on circumstantial evidence, we review the sufficiency of the evidence by applying “a heightened two-step standard” of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). We begin by identifying the circumstances proved by the state. *State v. Isaac*, 9 N.W.3d 812, 815 (Minn. 2024) (quoting *State v. McInnis*, 962 N.W.2d 874, 890 (Minn. 2021)). In doing so, we “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.” *State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026) (quotation omitted). Then, “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.* (quotation omitted). “If a reasonable inference other than guilt exists, then we will reverse the conviction.” *Loving*, 891 N.W.2d at 643.

A. Circumstances Proved

We begin by identifying the circumstances proved. When viewing all questions of fact in the light most favorable to the guilty verdict, we are left with the following subset of facts as circumstances proved by the state. S.V. left a black bag in his car containing welding supplies, credit and debit cards, and motorcycle keys. S.V. also left a black gun case on the front passenger floorboard containing a .40-caliber handgun, two full magazines, and a lock. S.V.’s car had been broken into, and his bag and gun case had been taken. S.V. immediately reported the theft to police. The next day, a patron from the Salvation Army found a red backpack in the parking lot with a handgun inside. Police

determined that it was a .40-caliber handgun. The hammer was cocked back, and the safety was off. The gun case contained a gun lock and two magazines, only one of which was fully loaded with ammunition. The serial number on the handgun matched the number S.V. provided to police. The backpack contained a set of keys and welding supplies that belonged to S.V. Police also found socks, clothing, and other personal items. The backpack and clothing belonged to Owens. Police conducted a pat-down search of Owens and found a spent .40-caliber shell casing and S.V.'s credit and debit cards in his pocket. Police believed that the bullet casing found in Owens's pocket could have been fired from a .40-caliber handgun. The .40-caliber handgun can only fire .40-caliber bullets. The DNA mixture found on the handgun originated from four individuals. Owens was identified as a possible contributor to the DNA mixture. The forensic scientist tested two hypotheses to determine the likelihood that Owens's DNA was present on the handgun and concluded that "the probability of observing this DNA mixture is 85 billion times more likely if []Owens and three unknown, unrelated individuals were the source than if four unknown, unrelated individuals were the source." Based on this determination, the forensic scientist determined Owens could have contributed 26% of the total amount of DNA found in the sample.

B. Reasonable Inferences Other Than Guilt

Turning to the next step, "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." *Firkus*, 31 N.W.3d at 478 (quotation

omitted). When viewed as a whole, we conclude that the circumstances proved support a rational hypothesis that Owens knowingly possessed S.V.'s handgun.

S.V.'s handgun was found in Owens's backpack. The serial number on the handgun matched the number S.V. provided to police. Police found a spent .40-caliber shell casing in Owens's pocket. Police believed that the bullet casing found in Owens's pocket could have been fired from a .40-caliber handgun, considering that type of gun can only fire .40-caliber bullets. The DNA mixture found on the handgun originated from four individuals, and Owens was a possible contributor. The forensic scientist tested two hypotheses and concluded that "the probability of observing this DNA mixture is 85 billion times more likely if Mr. Owens and three unknown, unrelated individuals are the source than if four unknown, unrelated individuals are the source."

Owens argues that the circumstances proved are inconsistent with a rational hypothesis that he constructively possessed the handgun because it was found in a place where others had access to it. Owens asserts that the circumstances proved support a reasonable inference that someone else could have placed the handgun in his backpack without his knowledge because it was left in the parking lot unattended. We are not persuaded.

We have established several factors sufficient to prove constructive possession of contraband. In *State v. Dickey*, we held that constructive possession can be proved beyond a reasonable doubt if the contraband is located (1) "near papers and personal documents bearing the suspect's name"; (2) "close to the suspect's clothing or personal property"; or (3) "in a room used as a bedroom by the suspect." 827 N.W.2d 792, 797 (Minn. App.

2013); *see also State v. Dennison*, 607 N.W.2d 796, 800 (Minn. App. 2000) (holding that defendant had constructive possession over contraband kept in a closet near her clothing). Here, the handgun was found inside Owens's backpack, which contained his clothing and personal items. While the backpack did not contain papers bearing Owens's name, he claimed ownership of the backpack. Police also found other stolen items belonging to S.V. inside Owens's backpack, including S.V.'s welding supplies and motorcycle keys. Given the facts before us, we conclude that the only reasonable inference is that Owens constructively possessed the handgun in his backpack.

Owens next challenges the reliability of the state's DNA evidence. Owens argues that the forensic scientist did not conclusively establish the source of the DNA found on the handgun, but that Owens was a "possible contributor" to a four-person DNA mixture. Owens argues that the circumstances proved do not exclude the possibility that his DNA was not present on the gun at all. Alternatively, Owens asserts that his DNA could have been inadvertently transferred from the clothing in his backpack onto the handgun. Owens's argument is unavailing.

Owens is correct that the statistical probability did not conclusively establish the source of the DNA mixture found on the handgun. But based on two hypotheses, the forensic scientist determined that "the probability of observing this DNA mixture is 85 billion times more likely if []Owens and three unknown, unrelated individuals were the source than if four unknown, unrelated individuals were the source." And based on the hypothesis that the DNA mixture was 85 billion times more likely if Owens and three unknown individuals were the source, the forensic scientist determined that Owens could

have contributed 26% of the total amount of DNA found in the sample. While secondary transfer of Owens's DNA onto the handgun is possible, we do not find Owens's alternative hypothesis reasonable considering the totality of the circumstances proved.

Finally, Owens argues that the spent .40-caliber shell casing found in his pocket, along with the empty magazine, do not support a reasonable inference that he knowingly possessed the handgun. While it is possible that these facts, when viewed independently, could support a rational hypothesis other than guilt, "we do not view each fact in isolation to determine whether it supports an inference of innocence." *State v. Colgrove*, 996 N.W.2d 145, 155 n.9 (Minn. 2023). We must consider the circumstances proved as a whole. *Firkus*, 31 N.W.3d at 486. Along with the spent .40-caliber shell casing and empty magazine, Owens possessed other stolen property belonging to S.V. This evidence, along with the statistical probability of Owens's DNA being present on the handgun, supports a reasonable inference that Owens knowingly possessed S.V.'s handgun.

We therefore conclude that the state presented sufficient evidence to support Owens's conviction of unlawful possession of a firearm.

II. The evidence is sufficient to support Owens's conviction of receiving stolen property.

Owens argues that his conviction of receiving stolen property must be reversed because the state failed to prove beyond a reasonable doubt that he concealed S.V.'s stolen handgun.

Under Minnesota Statutes section 609.53, subdivision 1, a person who "receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery,

knowing or having reason to know the property was stolen or obtained by robbery,” is guilty of possession of stolen property. To convict Owens of receiving stolen property, the state had to prove that (1) Owens possessed or concealed the handgun, (2) the handgun “was taken by someone without the consent of the owner, and with the intention of depriving the owner permanently of possession,” (3) Owens “knew or believed or had reason to know” the handgun was stolen, and (4) the act took place on or about May 29, 2022, in Olmsted County. *See* 10A *Minnesota Practice*, CRIMJIG 16.33 (2025). Owens only contests the first element—whether he concealed the handgun. Concealment “is not limited to its literal meaning of hiding or secreting property but includes conduct which converts the property to the defendant’s use or renders its discovery more difficult by the owner.” *State v. Lawrence*, 312 N.W.2d 251, 253 (Minn. 1981).

A. Circumstances Proved

We begin by identifying the circumstances proved. The state proved the following facts: S.V. left a gun case under the front passenger seat containing a .40-caliber handgun, two full magazines, and a lock. S.V. discovered that his car had been broken into. S.V. observed that the gun case was missing and immediately reported the theft to police. The next day, a patron from the Salvation Army found a red backpack in the parking lot with a handgun inside. The backpack belonged to Owens. The gun found in the backpack was a .40-caliber handgun. The serial number on the handgun matched the number S.V. provided to police.

B. Reasonable Inferences Other Than Guilt

Next, we must 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 (quotation omitted). Here, the circumstances proved are consistent with the rational hypothesis that Owens concealed S.V.’s stolen handgun by hiding it in his backpack, making it more difficult for S.V. to discover and are inconsistent with any other rational hypothesis. Owens admitted to police that the red backpack was his. The gun found in the backpack was a .40-caliber handgun. And the serial number on the handgun matched the number S.V. provided to police.

In addition to concealment, Owens’s unexplained possession of the handgun within a reasonable time after the theft took place also supports his conviction of receiving stolen property. *State v. Hager*, 727 N.W.2d 668, 677-78 (Minn. App. 2007) (holding that a person’s “unexplained possession of stolen property within a reasonable time after a theft will in and of itself be sufficient to sustain a conviction” of receiving stolen property). Here, S.V.’s handgun was found in Owens’s backpack one day after S.V. reported the theft to police. And when questioned by police, Owens could not provide a sufficient explanation for why S.V.’s handgun was found in his backpack.

Accordingly, because the circumstances proved support a reasonable inference that Owens concealed S.V.’s handgun, we conclude that the state provided sufficient evidence to support Owens’s conviction of receiving stolen property.

Affirmed.