

*This opinion is nonprecedential except as provided by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
A25-1614**

State of Minnesota,
Respondent,

vs.

Abdirizak Bashir Barre,
Appellant.

**Filed July 27, 2026
Affirmed
Reyes, Judge**

Ramsey County District Court
File No. 62-CR-23-6092

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

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Bratvold, Judge; and Reilly,
Judge.*

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

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges the sufficiency of the evidence supporting his conviction of first-degree controlled-substance possession for unlawfully possessing 100 dosage units or more containing fentanyl. We affirm.

FACTS

Respondent State of Minnesota charged appellant Abdirizak Bashir Barre with two counts of first-degree possession of a controlled substance, including, as relevant here, for possessing “100 dosage units or more” of mixtures “containing heroin or fentanyl” in violation of Minnesota Statutes section 152.021, subdivision 2(a)(3) (Supp. 2023). The other count, later dismissed and not relevant on appeal, involved the possession of “50 grams or more” of mixtures “containing cocaine or methamphetamine” in violation of Minnesota Statutes section 152.021, subdivision 2(a)(1) (Supp. 2023).

We restate the undisputed facts and resolve all factual questions in favor of the jury’s verdict. *See State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026). In a separate Hennepin County case, appellant worked with a bail-bonding company. Bond agent J.B. wrote appellant’s bond. Appellant’s wife cosigned the bond. Appellant later failed to appear in Hennepin County District Court.

J.B. then worked as a “bounty hunter”¹ to return appellant to custody. After J.B. apprehended and handcuffed appellant in Ramsey County, J.B. located two bags of pills in

¹ The record also uses the terms “fugitive recovery agent” and “surety recovery agent” to reference this role.

appellant's pants pocket. J.B. estimated that each bag held at least 100 small blue pills. Appellant told J.B. that the pills were fentanyl and that "they were for his personal use." J.B.'s partner then arrived at the scene and removed identical, loose pills, as well as "a makeshift pipe" and a candy wrapper to contain the pills, from appellant's nearby vehicle.

J.B. and his partner turned in appellant, the pipe, and the bags of pills to the Hennepin County Sheriff's Office. A sheriff's deputy counted a total of 1,458 pills, each marked with "M" on one side and "30" on the other side. The deputy also conducted field testing of the pills, which revealed the presence of fentanyl. The sheriff's office directed the Bureau of Criminal Apprehension (the BCA) laboratory to test one of the pills. A forensic analyst at the BCA removed one pill from a bag of over 900 pills and tested it, which confirmed the presence of fentanyl.

This case proceeded to a jury trial at which the state called J.B., four sheriff's deputies, and the forensic analyst to testify. After the state rested its case, appellant moved for a judgment of acquittal, claiming in part that "there is no admissible evidence . . . [from] which a reasonable jury would be able to draw the conclusion that more than one pill was actually fentanyl." The district court denied the motion, explaining that circumstantial evidence could support the "fair belief" that appellant "possessed 100 or more dosage units of fentanyl." Appellant thereafter called his wife as his sole witness.

The jury found appellant guilty of unlawfully possessing 100 dosage units or more of a mixture containing fentanyl. The district court convicted appellant of this offense and sentenced him to prison for 73 months, with 329 days credited for time served.

This appeal follows.

DECISION

Appellant argues that the state presented insufficient evidence to sustain his conviction because it “failed to prove beyond a reasonable doubt” that at least 100 of the seized pills² contained fentanyl. We are not persuaded.

When reviewing a sufficiency-of-the-evidence challenge, appellate courts consider “whether the State relied on direct or circumstantial evidence at trial.” *State v. Segura*, 2 N.W.3d 142, 155 (Minn. 2024). “[D]irect evidence is evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Circumstantial evidence, on the other hand, is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted).

To prove appellant guilty, the state needed to establish beyond a reasonable doubt that appellant unlawfully possessed “100 dosage units or more” of a mixture that “contain[ed] . . . fentanyl.” Minn. Stat. § 152.021, subd. 2(a)(3). Because the state relied in part on circumstantial evidence, we agree with the parties that the circumstantial-evidence standard applies. *See State v. Al-Naseer*, 788 N.W.2d 469, 474-75 (Minn. 2010) (describing use of circumstantial-evidence standard “in cases in which both direct and circumstantial evidence support the conviction”).

² On appeal, neither party distinguishes between the term “dosage unit” as used in the statute and the term “pill” as used in their briefing. We therefore use the terms “pill” and “dosage unit” interchangeably here.

Appellate courts “apply a two-step test to assess the sufficiency of [circumstantial] evidence.” *Firkus*, 31 N.W.3d at 478. In the first step, 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.” *Id.* (quotation omitted). The underlying rationale in the first step is that “the jury is in a unique position to determine the credibility of the witnesses and weigh the evidence before it.” *Id.* at 479 (quotation omitted).

In the second step, appellate courts “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.* at 483. At this step, we afford no deference to the jury and evaluate the reasonableness of the inferences independently. *Id.*

Proceeding to the first step, the relevant circumstances proved are that:

- J.B. apprehended appellant in connection with a separate legal proceeding. J.B. removed two bags, each containing at least 100 small blue pills, from appellant’s pants pocket.
- Appellant told J.B. that the pills were fentanyl for his own “personal use.”
- J.B.’s partner collected additional pills and a pipe from inside appellant’s vehicle.
- J.B. and his partner turned in appellant and the property to the sheriff’s office.
- A sheriff’s deputy counted the pills individually, totaling 1,458 pills.

- A sheriff's deputy conducted field testing of the pills which revealed the presence of fentanyl.
- The sheriff's office requested that the BCA test one of the pills.
- A forensic analyst at the BCA "pick[ed] one pill" from a bag that contained over 900 total pills. The analyst tested the pill by taking "two sample extractions" and confirmed that it contained fentanyl. The analyst testified that, "As far as the limitations of science, I know no other compound that [the pill] could be."
- J.B., four sheriff's deputies, and the forensic analyst testified that all of the pills appeared small, blue, and identical.
- Two sheriff's deputies testified that the pills were marked with an imprint of "M-30." They also testified that small, blue pills labeled "M-30" can be legal, prescription Percocet pills or counterfeit Percocet pills containing fentanyl.

Appellant concedes that, when viewed as a whole, the circumstances proved support a reasonable hypothesis that he is guilty of possessing at least 100 pills containing fentanyl. He also correctly concedes that Minnesota has no "minimum evidentiary requirements" for identifying substances. *State v. Loveless*, 987 N.W.2d 224, 248 (Minn. 2023) (quotation omitted). We agree with appellant on both of these issues and need not consider whether the state could have proved appellant's guilt by requesting additional testing.

Appellant nonetheless argues that the circumstances proved also support a reasonable hypothesis that the bags contained a mix of "fentanyl and Percocet" pills, such that less than 100 of the 1,458 total pills contained fentanyl. We are not persuaded.

As a preliminary matter, we note that appellant does not list the circumstances proved in his analysis. While appellant provides an alternative hypothesis, he does not evaluate whether the circumstances proved as a whole support it. Instead, appellant relies on evidence in the record but outside of the circumstances proved, and points to other information outside of the record entirely. We decline to consider appellant's inferences drawn from information outside of the circumstances proved, including extra-record material. *See Firkus*, 31 N.W.3d at 478 (describing second step as considering “the reasonable inferences *that can be drawn from the circumstances proved*” (emphasis added) (quotation omitted)); *State v. Marth*, 25 N.W.3d 911, 916 n.1 (Minn. App. 2025) (“The general rule is that this court will not consider evidence outside the record.” (quotation omitted)), *rev. denied* (Minn. Oct. 29, 2025).

Appellant references only one circumstance proved in reference to his alternative hypothesis: the fact that the pills “were marked as and looked like Percocet.” For support, he cites *State v. Robinson*, 517 N.W.2d 336 (Minn. 1994), but that case is inapposite. In *Robinson*, the supreme court concluded that certain testing was not sufficient to convict the appellant of possessing a certain weight of cocaine based on the circumstances proved because (1) packages of suspected cocaine “were not homogeneously packaged” and (2) “drug dealers are known to substitute placebos for the real thing.” 517 N.W.2d at 339. The supreme court noted that “[t]here may be instances” when “the seized material consists of pills or tablets [that] are so alike” and “the risk of benign substitutes [is] so unlikely” that the challenged testing method “may legitimately permit an inference beyond a reasonable doubt that the requisite weight of the whole mixture is established.” *Id.* at 340.

Here, all of the pills appeared identical. And there is no circumstance proved that drug dealers or appellant himself ever substituted genuine Percocet for counterfeit Percocet, or mixed the two, leaving appellant with less than 100 pills containing fentanyl. An alternative hypothesis “based on mere conjecture” does not justify the reversal of a conviction. *See Firkus*, 31 N.W.3d at 483 (quotation omitted).

Because the pills were “so alike and the risk of benign substitutes [was] so unlikely,” the circumstances proved here permit only one reasonable inference: appellant is guilty of possessing at least 100 pills containing fentanyl. *Robinson*, 517 N.W.2d at 340.

Viewing the circumstances proved as a whole, we conclude that appellant’s proposed alternative hypothesis is not a “*reasonable* inference inconsistent with guilt,” and the state presented sufficient evidence to support appellant’s conviction. *Firkus*, 31 N.W.3d at 484 (emphasis added).

Affirmed.