

*This opinion is nonprecedential except as provided by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
A25-1892**

State of Minnesota,
Respondent,

vs.

Donzeal Marquette Epps,
Appellant.

**Filed August 31, 2026
Affirmed; motion denied
Frisch, Chief Judge**

Hennepin County District Court
File No. 27-CR-24-9750

Keith Ellison, Attorney General, Jilian Frueh, Assistant Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Eva F. Wailes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Frisch, Chief Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

In this direct appeal from judgments of conviction on two counts of theft by false representation, appellant Donzeal Marquette Epps argues that the evidence is insufficient to

sustain his convictions. Because the evidence presented at trial is sufficient to sustain Epps's convictions, and none of the arguments raised in Epps's supplemental brief warrant relief, we affirm.

FACTS

On an amended complaint in January 2025, respondent State of Minnesota charged Epps with two counts of aiding and abetting theft by false representation and one count of financial exploitation of a vulnerable adult. *See* Minn. Stat. §§ 609.52, subd. 2(a)(3)(iii) (theft by false representation), .2335, subd. 1(1)(ii) (financial exploitation of a vulnerable adult) (2020).¹ In the amended complaint, the state valued the stolen property in count one at over \$5,000 and in count two at over \$1,000.²

A jury trial commenced on July 16, 2025. The following facts are derived from the evidence presented at trial.

Epps's mother, C.E., was authorized to receive Medicaid-funded services from a personal care assistant (PCA) and homemaking services due to C.E.'s brain injury. Generally, a PCA provides at-home services to individuals needing assistance with activities of daily living. Healthcare agencies receive reimbursement through the

¹ The complaint references Minn. Stat. § 609.05 (2020), which provides that “[a] person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, conspires with or otherwise procures the other to commit the crime.”

² The value of the stolen property does not affect the elements of the offense and is relevant only for sentencing purposes. *See* Minn. Stat. §§ 609.52, subds. 3(2) (providing if value of stolen property or services exceeds \$5,000, the sentence may not exceed ten years in prison or payment of a fine of not more than \$20,000, or both), 3(3)(a) (providing if value of stolen property exceeds \$1,000 but is not more than \$5,000, the sentence may not exceed five years in prison or payment of a fine of not more than \$10,000, or both) (2020).

Minnesota Department of Human Services (DHS) for covered PCA and homemaking services.

In January 2021, Epps's sister, D.E., moved in with Epps and C.E., and she shortly thereafter began providing PCA and homemaking services for C.E.³ D.E. was employed as a PCA through Ultimate Home Healthcare (Ultimate). To be paid by Ultimate, D.E. was required to complete time sheets recording the hours she worked.

Before receiving PCA services through Ultimate, C.E. underwent an assessment to determine her daily needs. Ultimate developed a care plan based on this assessment. C.E.'s assessment indicated that C.E. "has an increased vulnerability due to cognitive deficit due to brain injury as a result of multiple strokes" and that she needed a responsible party. A responsible party is "someone who witnesses a PCA working for the [recipient] and signs off on the [time] sheets." Generally, a responsible party is needed when a recipient is deemed unable to make decisions for themselves. Epps served as the responsible party for C.E.

Epps signed a responsible-party agreement and plan with Ultimate. The agreement provides that one of the duties of the responsible party is to "[s]ign the PCA time sheets after services are provided to verify the services." Once the PCA fills out the time sheet, the responsible party signs the time sheet and submits it to Ultimate. Ultimate then submits the time sheet to DHS for reimbursement. DHS will not grant reimbursement requests for

³ D.E. also provided homemaking services through Axis Home. Homemaking services are services having to do with the home that are also reimbursable through the Medicaid program.

PCA services without a signed time sheet. The following acknowledgment appears above the PCA's and responsible party's signatures on the Ultimate time sheets:

After the PCA has documented his/her time and activity, the recipient must draw a line through any dates/times he/she did not receive services from the PCA. Review the completed time sheet for accuracy before signing. It is a federal crime to provide false information on PCA billings for Medical Assistance payment. Your signature verifies the time and services entered above are accurate and that the services were performed as specified in the PCA Care Plan.

Epps also served as the responsible party for the homemaking services that C.E. received through Axis. The same acknowledgment appears on the Axis time sheets.

At trial, D.E. testified that she typically provided four to five hours of services to C.E. per day. D.E. learned how to complete time sheets from Epps. D.E. would fill out the time sheets, and Epps would submit them. The state asked D.E. about signatures on PCA time sheets dated between March and June 2021. D.E. testified that the signatures on six Ultimate time sheets did not belong to her and that the signatures on three Ultimate time sheets belonged to her or "look[ed] like" hers, but she did not provide the services listed. D.E. also testified that, of the signatures appearing to be hers on three homemaking time sheets, the signatures on two time sheets belonged to her, but one of the signatures was not hers. The following exchange occurred during D.E.'s testimony:

THE STATE: And you also testified that it was your brother [Epps] who told you how to complete the time sheets?

D.E.: Yes, because I don't know how to do it.

THE STATE: Okay. So can you clarify whether or not did your brother know that you were filling out the time sheets—

D.E.: Yes, he was sitting right at the table with me and filling it out.

THE STATE: And did he know that you did not provide those services?

D.E. Yes.

THE STATE: Yes, he did not—

D.E. Yes, he did not know.

The state also introduced six PCA time sheets signed by Epps and someone named Y.M., reflecting that Y.M. provided overnight services to C.E. in January, February, and March 2021. D.E. did not witness anyone named Y.M. providing services to C.E. D.E. testified that she would be aware if someone came into the house to provide PCA services.

D.E. and her son flew from Minneapolis to Chicago on February 12, 2021. D.E. did not provide PCA services to C.E. while in Chicago. D.E. testified that Epps told her to fill out a time sheet when she returned from Chicago “so that the times would not seem off.” A time sheet signed by D.E. and Epps provides that D.E. provided PCA services to C.E. on February 12 between 7:00 a.m. and 3:45 p.m.

The evidence at trial also included nine checks dated between February and September 2021. Eight checks are addressed to D.E., and one is addressed to Y.M. The back of each check contains varying forms of the written notation “pay to” the “order of Donzeal Epps,” as well as the signature of both Epps and the original recipient of the check. When asked whether she signed her checks over to Epps, D.E. said, “I had to . . . [b]ecause he told me you sign a check over, I’ll go cash it, and then I will give you some of the payment.” When asked whether Epps gave her payment, D.E. said, “He bought me a phone. He bought food to put in the house. I got [\$]20, \$25 from it, and that’s pretty much it.” D.E. and Epps shared a bank account, but D.E. testified that she did not have access to the money in the account.

An investigator in the Medicaid Fraud Control Unit of the Attorney General's Office created a charging spreadsheet based on her investigation into Epps. The investigator attributed to Epps \$18,541.24 in stolen funds.

B.E., the brother of Epps and D.E., also testified. B.E. testified that he moved in with Epps, C.E., and D.E. in early summer 2021, and that during this time, he witnessed D.E. caring for C.E. B.E. also testified that he had heard of but did not know whether he had met Y.M.

Epps admitted to acting as the responsible party for C.E. and to signing the time sheets. Epps testified that he had already submitted the time sheet for February 12, 2021, when he found out D.E. was going to Chicago and that he called Ultimate to tell them not to bill for this period. Epps testified that he used the checks signed over to him to support D.E. and their household. Epps admitted that he cashed some of the checks and that he deposited some of the checks into the bank account that he shared with D.E.

Before the case was submitted to the jury, the district court expressed concern about instructing the jury on accomplice liability given that the evidence at trial did not establish that Epps had acted as an accomplice. As to the elements of theft by false representation, the district court provided the following instruction:

[F]irst, the defendant obtained for himself the possession of Medicaid funds from the Minnesota Department of Human Services.

Second, the defendant intentionally deceived the Minnesota Department of Human Services with a false representation. Intentionally means that the defendant either had the purpose to do the thing or cause the result specified or

believed that the act performed by the defendant, if successful, would cause that result.

In addition, the defendant must have knowledge of those facts that are necessary to make the defendant's conduct criminal and that are set forth after the word "intentionally."

False representation includes the preparation or filing of a claim for reimbursement used to establish a claim for payment for medical care provided to a recipient of medical assistance which intentionally falsely states the costs of or actual services provided by a vendor of medical care.

Third, the defendant knew or believed that the representation was false.

Fourth, the defendant made the false representation with intent to defraud the Minnesota Department of Human Services.

With intent to defraud means the defendant either had a purpose to deceive another person to gain some material advantage or believed that the defendant's act, if successful, would cause that result.

Fifth, the Minnesota Department of Human Services believe that the false representation was true and in reliance o[n] such false representation gave up possession of Medicaid funds.

Sixth, the defendant's act took place on or between [dates relevant to count].

The jury found Epps guilty of both counts of theft by false representation. The jury found that, for each count, the total value of stolen property was not more than \$500. The district court sentenced Epps to 90 days in jail for each count, to be served concurrently, but stayed the sentence for one year, and ordered restitution of \$499 on each count.

Epps appeals.

DECISION

Epps argues that the state failed to present sufficient evidence at trial to sustain his convictions for theft by false representation. Epps also raises several arguments in a pro se supplemental brief.

I. The evidence at trial is sufficient to sustain the convictions.

To prove that Epps committed theft by false representation, the state was required to prove that Epps obtained “for the actor or another the possession, custody, or title to property of . . . a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made.” Minn. Stat. § 609.52, subd. 2(a)(3) (2020). Epps argues that the state failed to prove that he (1) obtained for himself the possession of Medicaid funds and (2) knowingly made false representations with the intent to deceive and the intent to defraud. We address each challenge in turn.

Epps first argues that the state failed to prove beyond a reasonable doubt that he obtained for himself the possession of Medicaid funds, and that the jury instructions precluded the state from proving that Epps obtained the funds for “another.” The state responds that the evidence is sufficient to prove that Epps obtained for himself or for another the possession of Medicaid funds.⁴

⁴ The state describes the jury instruction as including “or another.” That is not accurate. The jury was instructed as to the first element: “the defendant obtained for himself the possession of Medicaid funds from the Minnesota Department of Human Services.”

When considering a claim of insufficient evidence where a disputed element is proven by direct evidence, we apply the traditional standard of review. *State v. Bonnell*, 31 N.W.3d 527, 551 (Minn. 2026). “Under the traditional standard, we limit our review to 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 jurors to reach the verdict which they did.’” *Id.* (quoting *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989)).

We conclude that the evidence is sufficient to prove that Epps obtained for himself the possession of Medicaid funds within the meaning of Minn. Stat. § 609.52, subd. 2(a)(3). The state presented evidence at trial that nine checks, issued by Ultimate and endorsed by either D.E. or Y.M., were signed over to Epps; that Epps cashed some of the checks and deposited some of the checks into the bank account he shared with D.E.; and that Ultimate is a provider of PCA services that pays individual PCA providers and then receives reimbursement through DHS with Medicaid funds.⁵

To convince us otherwise, Epps contends that the evidence does not support the conclusion that he obtained the money for himself because the evidence demonstrates that he used that money for the benefit of his household. But the statute describes that a person is guilty of theft by false representation who “*obtains*” for himself or another the

⁵ Epps argues that the state failed to produce evidence that Epps obtained funds for the week of February 11, 2021. But the evidence shows that Epps obtained Medicaid funds during the time periods relevant to each count. Specifically, eight of the nine checks admitted at trial were dated during the time period relevant to count one (April 13 through September 28, 2021), and one of the checks was dated during the time period relevant to count two (February 17 through March 16, 2021).

“possession . . . [of] property of . . . a third person.” Minn. Stat. § 609.52, subd. 2(a)(3) (emphasis added). And, as described above, the evidence at trial established that Epps obtained the funds for himself, notwithstanding the manner in which he eventually used the funds.⁶

Epps next argues that the evidence was insufficient to prove that he intentionally deceived DHS with a false representation that he knew was false and with intent to defraud DHS. The state submitted circumstantial evidence to prove these elements of the crime. We apply a two-step test to assess the sufficiency of such evidence. *State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026). The first step requires us 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 circumstances proved.” *Id.* (quotation omitted). The second step requires us 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.” *Id.* (quotations omitted). In so doing, we do not give deference to the jury’s choice between reasonable inferences. *State v. Hassan*, 977 N.W.2d 633, 640 (Minn. 2022). “The State’s circumstantial evidence is sufficient when the

⁶ Epps appears to argue that the state did not prove the crime *as instructed*. However, “the sufficiency of the evidence to support a conviction is not reviewed in the context of the instructions that the jury receives but about the actual elements of the offense.” *State v. Metcalfe*, 13 N.W.3d 704, 713 n.4 (Minn. App. 2024) (citing *Musacchio v. United States*, 577 U.S. 237, 242-43 (2016) (holding that sufficiency challenge is assessed against actual elements of charged crime)).

reasonable inferences are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.*

The statute, in relevant part, provides that an actor is guilty of theft by false representation who obtains for himself or another the possession of a third party’s property “by intentionally deceiving the third person with a false representation which is known to be false.” Minn. Stat. § 609.52, subd. 2(a)(3). Minnesota law provides that “intentionally” means that the actor either (1) “has a purpose to do the thing or cause the result specified” or (2) “believes that the act performed by the actor, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(3) (2020). Additionally, “the actor must have knowledge of those facts which are necessary to make the actor’s conduct criminal and which are set forth after the word ‘intentionally.’” *Id.*

The statute also requires the state to prove that Epps acted “with intent to defraud.” Minn. Stat. § 609.52, subd. 2(a)(3). Under Minnesota law, “with intent to” means either (1) the actor “has a purpose to do the thing or cause the result specified” or (2) the actor “believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2020).

The following circumstances were proved at trial:

- Epps, C.E., and D.E. lived together during the relevant time period.
- C.E. was a vulnerable adult who was qualified to receive Medicaid-funded PCA and homemaking services through Ultimate and Axis, respectively.
- Ultimate and Axis receive reimbursement through DHS for covered PCA and homemaking services.

- Epps was the responsible party for C.E.
- D.E. provided PCA and homemaking services to C.E.
- D.E. learned how to complete time sheets from Epps.
- Epps signed a responsible-party agreement with Ultimate wherein he agreed to “[s]ign the PCA time sheets after services are provided to verify the services.”
- Both the PCA and the responsible party are required to sign off on the PCA time sheets. The following acknowledgment is printed above the signatures of the responsible party and the PCA: “Your signature verifies the time and services entered above are accurate and that the services were performed as specified in the PCA Care Plan.”
- D.E. testified that she typically provided four to five hours of services per day to C.E. D.E. never provided overnight services to C.E.
- Six PCA time sheets signed by Y.M. and Epps show that Y.M. provided overnight PCA services to C.E. in January, February, and March 2021.
- D.E. did not know Y.M., nor did she witness Y.M. providing services to C.E. D.E. would be aware if someone came to the house to provide services for C.E.
- On February 12, 2021, D.E. and D.E.’s son flew from Minneapolis to Chicago. D.E. did not provide any services to C.E. while she was in Chicago. Epps told D.E. to fill out a time sheet when she returned from Chicago “so that the time would not seem off.” Epps and D.E. signed a time sheet representing that D.E. provided services to C.E. on February 12, which Epps knew was inaccurate.
- The signatures on six Ultimate time sheets ranging between March and June 2021 did not belong to D.E. The signatures on three Ultimate time sheets belonged to her or “look[ed] like” hers, but she did not provide the services listed. Eight of these nine time sheets show services beginning at 3:00 or 4:00 a.m.
- Signatures appearing to be from D.E. on two Axis time sheets belonged to her, but one signature on an Axis time sheet did not appear to belong to her.

- D.E. never turned in her own time sheets. Epps sat with D.E. while she filled out her time sheets. D.E. gave her time sheets to Epps, who then submitted them to Ultimate or Axis.
- D.E. believed that Epps knew that she did not complete the services listed on the time sheets.
- D.E. and Epps shared a bank account. D.E. possessed a debit card for the account but never accessed it.
- Nine checks issued by Ultimate and dated between February and September 2021 were signed over to D.E. Eight of these checks were addressed to D.E., and one was addressed to Y.M. The back of each check contains a variation of the written notation, “pay to” the “order of Donzeal Epps” along with the signature of both Epps and the original recipient of the check. Epps cashed the checks or deposited the checks into the bank account that he shared with D.E.

Epps does not dispute that the reasonable inferences from these circumstances proved are consistent with a hypothesis of guilt. He instead argues that the evidence is insufficient because the reasonable inferences from the circumstances proved are also consistent with a rational hypothesis other than guilt, namely that Epps did not knowingly make a false representation with the intent to deceive and defraud DHS because he “had no way to know” that D.E.’s time sheets were inaccurate. We disagree.

The circumstances proved at trial include that Epps sat with D.E. while she filled out the time sheets, and she believed that he knew that she did not complete the hours listed; that Epps signed a responsible-party agreement agreeing to “verify the [PCA] services” provided; that Epps was informed that signing time sheets amounted to his verification that time and services entered are accurate and that the services were performed as specified in the PCA Care Plan; that Epps signed time sheets dated between March and June 2021 verifying that D.E. provided PCA services that D.E. did not provide; that Epps

signed a time sheet representing that D.E. provided PCA services to C.E. on February 12, 2021, while D.E. was in Chicago and that Epps knew was inaccurate; and that Epps directed D.E. to complete a time sheet when she returned from Chicago “so that the time would not seem off.” Viewing the facts in the light most favorable to the verdict, we cannot conclude that the circumstances proved are consistent with a rational hypothesis that Epps did not know that he made a false representation.

Epps also argues that the circumstances proved are consistent with a rational hypothesis that he did not know he was making a false representation because he testified to reporting the time sheet that he knew was inaccurate. Epps does not dispute that his submission of the time sheets for PCA services constitutes a false representation pursuant to Minn. Stat. § 609.52, subd. 2(a)(3)(iii). But resolving questions of fact in favor of the jury’s verdict on appeal requires us to conclude that Epps’s testimony to this effect is not a circumstance proved. *See Firkus*, 31 N.W.3d at 478 (providing that the first step of the circumstantial-evidence analysis “requires us to winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict” (quotation omitted)).

Epps further appears to argue that the circumstances proved are consistent with the rational hypothesis that he did not act with intent to deceive or defraud DHS because any errors he made “may have been oversights which stemmed from his lack of training and supervision.” But this argument is based on pure speculation, and “we do not set aside verdicts based on speculation.” *State v. Al-Naseer*, 788 N.W.2d 469, 480 (Minn. 2010). Even so, the circumstances proved establish that Epps sat with D.E. while she filled out her time sheets; that D.E. believed that Epps knew she did not provide all of the services

listed on her time sheets; that D.E. filled out the time sheets at Epps's direction; that seven of the time sheets purporting to be signed by D.E. were not signed by her; and that Epps knew that submission of the time sheets would result in payment from DHS. Accordingly, the circumstances proved are not consistent with a hypothesis that Epps did not know that his actions would result in DHS paying out funds for services that were not provided.

Finally, Epps contends that “the jury could not have found credible or accepted all of the state’s evidence because it disagreed with the state on the amount that had been proven stolen by a significant amount.” This argument refers to the jury’s finding that the amount at issue was not more than \$500 for each count. But, as Epps concedes, the value of the stolen property is not an element of the offense. Thus, the value of the property obtained is not relevant to our determination as to whether the evidence is sufficient to sustain the conviction. *See State v Marth*, 25 N.W.3d 911, 923, 925-26 (Minn. App. 2025) (concluding that value of the property obtained is not an element of theft by swindle and, accordingly, is not relevant in a sufficiency-of-the-evidence analysis), *rev. denied* (Minn. Oct. 29, 2025).⁷

⁷ Epps also conclusively asserts that “the state’s confusion about its own theory of the case and its changing theory of liability shed light on the problems with the circumstantial evidence” in this case. This general assignment of error does not advance Epps’s argument. *See Horodenski v. Lyndale Green Townhome Ass’n*, 804 N.W.2d 366, 372 (Minn. App. 2011) (“[E]rror is not presumed on appeal, and the burden of showing error rests on the party asserting it.”).

II. Epps is not entitled to relief based on the additional arguments set forth in his pro se supplemental brief.

In a pro se supplemental brief, Epps argues additionally that his convictions must be reversed because a search warrant was invalid and he received ineffective assistance of counsel. We do not discern a basis for relief based on these arguments.

First, Epps did not challenge the validity of a search warrant at the district court and has therefore forfeited such a challenge on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (explaining that appellate courts “generally will not decide issues which were not raised before the district court, including constitutional questions of criminal procedure”).

Second, we reject Epps’s ineffective-assistance-of-counsel claim. Epps appears to argue that he was deprived of effective assistance of counsel (1) “when the judge instructed me that I could not verbally communicate with my attorney and told me I had to write my questions down if I wanted to communicate with counsel,” and (2) because his attorney “failed to properly investigate, explain, argue, or present critical DHS regulations, Qualified Professional duties, PCA supervision requirements, multiple-provider authorization procedures, and statutory defenses directly related to the State’s theory of overlapping services and alleged theft-by-false-representation.” Because Epps presents these arguments as conclusory statements without citation to applicable authority, we deem these arguments to be forfeited. *See State v. German*, 929 N.W.2d 466, 476-77 (Minn. App. 2019) (“Arguments are forfeited if they are presented in a summary and conclusory

form, do not cite to applicable law, and fail to analyze the law when claiming that errors of law occurred.” (quotation omitted)).⁸

Affirmed; motion denied.

⁸ After the close of briefing, the state moved to strike portions of Epps’s pro se supplemental brief and addendum that refer to material outside the record. We do not consider matters outside the record. *See* Minn. R. Civ. App. P. 110.01 (stating that the record on appeal consists only of documents filed in the district court, offered exhibits, and any transcript of the proceedings); *ALL, Inc. v. Hagen*, 970 N.W.2d 681, 688 (Minn. App. 2021) (explaining that we are precluded from considering matters outside the appellate record). Because we do not rely on any of the materials identified in the state’s motion to strike, we deny the motion to strike as moot. *ALL, Inc.*, 970 N.W.2d at 688 (citing *Drewitz v. Motorwerks, Inc.*, 728 N.W.2d 231, 233 n.2 (Minn. 2007) (denying motion to strike as moot when court did not rely on challenged materials)).