

*This opinion is nonprecedential except as provided by  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  
A25-1927**

State of Minnesota,  
Respondent,

vs.

Joshua Deonte Moore,  
Appellant.

**Filed August 31, 2026  
Affirmed in part, reversed in part, and remanded  
Reyes, Judge**

Ramsey County District Court  
File No. 62-CR-24-5673

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, Amy Lawler, Assistant Public  
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and  
Rasmusson, Judge.

**NONPRECEDENTIAL OPINION**

**REYES, Judge**

Appellant challenges the sufficiency of the evidence underlying his convictions of possession of a firearm as an ineligible person and possession of ammunition as an ineligible person, disputing both his involvement in the shooting and the nature of the

weapon. We conclude that sufficient evidence supports both of appellant's convictions. But because the district court entered two convictions under Minnesota Statutes section 624.713 (2024) based on one criminal act, we reverse the ammunition conviction and remand for the district court to vacate that conviction.

## FACTS

Respondent State of Minnesota charged appellant Joshua Deonte Moore with one count of possession of a firearm by an ineligible person and one count of possession of ammunition by an ineligible person, both under Minnesota Statutes section 624.713, subdivision 1(2). These charges arose out of events which were largely captured on surveillance videos with no audio. We restate the undisputed facts from trial evidence and testimony, and we resolve all factual questions in favor of the jury's verdict. *See State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026) (providing sufficiency-of-the-evidence standard of review).

One afternoon in August 2024, an individual stood at a populated intersection in St. Paul. They wore a gray tank top, light-colored jean shorts, red socks, and yellow shoes, as well as a black baseball cap and a black ski mask. After a vehicle entered the intersection, the individual retrieved a weapon and shot once at the vehicle. People standing nearby scattered, and the shooter fled on foot.

The St. Paul Police Department responded, in three relevant parts, to a report of "shots fired" at this intersection. First, Officers S. and M. responded to the scene of the shooting: Officer S. viewed a surveillance video from a nearby business and Officer M. located a spent bullet casing on the ground at the intersection. Second, Officer H. viewed

another surveillance video remotely and relayed a physical description of the shooter to other officers, orally identifying the shooter's appearance and attire, including their red socks. Officer H. also forwarded at least one screenshot of the video to responding officers, providing a visual depiction of the shooter. Third, several officers searched the nearby area for the shooter.

Between ten and thirty minutes following the shots-fired report, Officer L. located and arrested appellant several blocks south of the intersection. Appellant wore red socks, yellow shoes, and a black baseball cap, matching the description of the shooter, but appellant had no shirt on and wore a different pair of shorts. Other officers joined the scene and, upon searching appellant, Officer M. found a black ski mask on appellant's person. Another officer discovered a gray tank top and jean shorts discarded in separate locations nearby. Police never recovered the weapon depicted in the surveillance videos.

At an omnibus hearing, appellant sought dismissal of the criminal complaint because he did not have a firearm or ammunition in his possession at the time of his arrest. The district court declined to dismiss the complaint.

Appellant later filed a motion to suppress "clothing and any other items seized from [appellant]" after his arrest, arguing that the officers lacked probable cause to arrest him because they "could not have reasonably believed that they were arresting the suspect of [the] shooting." After a contested-motion hearing, the district court denied the motion.

This case proceeded to a jury trial. At the outset, appellant stipulated to his ineligibility to possess both a firearm and ammunition on the date of the shooting. The state then called St. Paul Police Officers S., M., and L. to testify. The district court accepted

into evidence the two surveillance videos, body-worn-camera footage of appellant's arrest, the physical bullet casing and ski mask, as well as photographs of appellant being detained, his attire at the time, the discarded clothing, and the bullet casing.

After the state rested its case, appellant moved for a judgment of acquittal, claiming in part that the state failed to prove that he possessed a firearm. The district court denied the motion. Appellant then waived his right to testify, called no witnesses, and rested his case.

The jury found appellant guilty of possession of a firearm by an ineligible person and possession of ammunition by an ineligible person. The district court convicted appellant of both offenses and sentenced him to prison for 60 months, based on the firearm count only, with 352 days credited for time served.

This appeal follows.

## **DECISION**

### **I. Sufficient evidence supports appellant's convictions.**

Appellant argues that the state failed to prove, related to the events depicted in the surveillance videos, that (1) appellant was the shooter and (2) the weapon shot was a firearm, both of which were required to support his convictions under Minnesota Statutes section 624.713, subdivision 1(2).<sup>1</sup> We are not persuaded.

When reviewing a sufficiency-of-the-evidence challenge, appellate courts begin by considering "whether the State relied on direct or circumstantial evidence at trial." *State*

---

<sup>1</sup> Appellant makes the same arguments and relies on the same evidence for both convictions. We therefore review the two convictions together.

*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 prove beyond a reasonable doubt that appellant (1) was ineligible to possess a firearm or ammunition and (2) knowingly possessed a firearm or ammunition.<sup>2</sup> Minn. Stat. § 624.713, subd. 1(2); *Harris*, 895 N.W.2d at 601 (discussing knowledge element of offense); *State v. Peterson*, 673 N.W.2d 482, 486 (Minn. 2004) (discussing requirement that state “prove every element of a charged offense beyond a reasonable doubt”). Appellant stipulated to the existence of the first prong, so the state needed to prove only the second prong. The state theorized that appellant was the shooter at the intersection, the shooting involved a firearm loaded with ammunition, and, at the time of the shooting, appellant possessed the loaded firearm. Because the state relied in part on circumstantial evidence, we agree with the parties that the circumstantial-evidence standard applies. *See State v. Porte*, 832 N.W.2d 303, 310 (Minn. App. 2013) (applying circumstantial-evidence standard because “direct evidence [was] insufficient by itself to prove” element of offense), *rev. denied* (Minn. June 24, 2013)).

---

<sup>2</sup> “Possession of a firearm may be proved through actual or constructive possession.” *State v. Salyers*, 858 N.W.2d 156, 159 (Minn. 2015). Appellant does not challenge his conviction on the basis of actual versus constructive possession, so we do not conduct a substantive analysis on that issue.

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.* (quotations 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 give 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:

- Surveillance videos depict several people standing at an intersection, including one individual wearing a gray tank top, light-colored jean shorts, red socks, and yellow shoes, as well as a black baseball cap and a black ski mask. The individual shot a weapon once. Upon firing, the weapon released a small puff of smoke and the other people at the intersection quickly left the area. The shooter fled on foot.
- Four officers testified that there was a report of “shots fired” at the intersection.
- Two officers testified that no one else was around when they arrived at the intersection, which was abnormal for the location and time of day.

- Two officers testified that Officer M. located a bullet casing at the intersection.
- One officer testified that, unlike a firearm, an “airsoft” gun would not leave a casing. Further, when shooting a firearm, “[t]here’s usually a flash[,] . . . a spark[,] or a fire” visible at the end of the barrel, indicating the ignition of gunpowder.
- Three officers testified that police detained appellant just a few blocks south of the intersection.
- Officer L. testified that he located appellant “about ten, fifteen minutes” after the shots-fired report.
- Photographs and a video from a body-worn camera capture appellant’s appearance while being detained. This evidence shows a person identified as appellant wearing a black baseball hat, no shirt, dark blue shorts, red socks, and yellow shoes.
- One police officer testified that he searched appellant’s person and located a black ski mask. The district court admitted the physical ski mask as well as a photograph of it into evidence.
- One police officer testified that he found the shooter’s discarded clothing in between the intersection and where police detained appellant: First, he found a “gray . . . tank top shirt,” and then, in a trash can a “couple hundred yards to the east,” he found “the shorts.” The district court admitted photographs of the discarded clothing into evidence.

Appellant concedes that, when viewed as a whole, the circumstances proved support a reasonable hypothesis that he is guilty of possessing a firearm as an ineligible person and possessing ammunition as an ineligible person. We agree.

Appellant nonetheless argues that the circumstances proved also support a reasonable hypothesis that either (1) appellant was not the shooter or (2) the weapon he shot was not “a firearm, loaded with (firearm) ammunition.” Both arguments are unpersuasive for the same reasons, so we address them together.

First, appellant suggests that the circumstances proved support the alternative hypothesis that he was not the shooter despite the matching shoes because either (1) he just happened to be wearing the same shoes or (2) the shooter discarded the shoes, like the other clothing, and appellant claimed them. Second, appellant suggests that the circumstances proved support the alternative hypothesis that the weapon shot was not a firearm because (1) “the gun in the video was not clearly identifiable as a firearm” and (2) the casing found at the intersection “might have been left there after a firearm was discharged at some point in the past.”

Appellant identifies no circumstances proved in support of these alternative hypotheses. *See State v. Ostrem*, 535 N.W.2d 916, 923 (Minn. 1995) (stating that appellant “must point to [circumstances proved] that [are] consistent with a rational theory other than guilt”). Instead, appellant relies on the *lack* of circumstances proved. In other words, appellant’s alternative hypotheses are “based on mere conjecture,” which does not justify the reversal of a conviction. *Firkus*, 31 N.W.3d at 483 (quotation omitted). Viewing the circumstances proved as a whole, we conclude that neither of appellant’s proposed alternative hypotheses is a “*reasonable* inference inconsistent with guilt,” and that the state presented sufficient evidence to support appellant’s convictions. *Id.* at 484 (emphasis added).

**II. The district court erroneously entered multiple convictions for offenses that constitute one criminal act.**

Even when not raised by either party, as here, appellate courts may address the erroneous entry of a conviction sua sponte. *See State v. Cruz*, 997 N.W.2d 537, 556 (Minn. 2023); *see also State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (describing appellate courts’ responsibility “to decide cases in accordance with law”). We therefore consider whether the district court properly entered convictions of possession of a firearm by an ineligible person and possession of ammunition by an ineligible person, both under Minnesota Statutes section 624.713, subdivision 1(2).

Under Minnesota Statutes section 609.04 (2024), a criminal defendant “may be convicted of either the crime charged or an included offense, but not both.” Minn. Stat. § 609.04, subd. 1. In other words, this section “forbids two convictions of the same offense or one offense and a lesser included offense on the basis of the same criminal act.” *State v. Hackler*, 532 N.W.2d 559, 559 (Minn. 1995). “Whether a conviction violates section 609.04 is a legal question that this court reviews de novo.” *State v. Bonkowske*, 957 N.W.2d 437, 443 (Minn. App. 2021).

Section 624.713, subdivision 2(b), describes the penalties for being an ineligible person possessing “any type of firearm *or* ammunition.” (Emphasis added.) In *State v. Nowels*, we held that a district court erred by convicting a criminal defendant of both a firearm offense and an ammunition offense under this subdivision because the offenses

arose from the same criminal act, namely, the possession of a single loaded firearm.<sup>3</sup> 941 N.W.2d 430, 442 n.8, 443 (Minn. App. 2020), *rev. denied* (Minn. June 16, 2020).

Like the district court in *Nowels*, the district court here convicted appellant of these two possession offenses based on the possession of a single loaded firearm, which constituted one criminal act. We therefore reverse in part and remand with instructions for the district court to vacate the judgment of conviction of unlawful possession of ammunition.<sup>4</sup> *See State v. LaTourelle*, 343 N.W.2d 277, 284 (Minn. 1984) (“[W]hen the defendant is [found guilty of] more than one charge for the same [criminal] act, [the district court should] adjudicate formally and impose [a] sentence on one count only.”). The district court should leave the firearm conviction and firearm sentence, as well as the jury’s findings of guilt for both charges, intact. *See Nowels*, 941 N.W.2d at 443 (discussing respect for both “Minnesota’s broad protections against double jeopardy” and “the jury’s determination about [a defendant’s] criminal conduct”).

**Affirmed in part, reversed in part, and remanded.**

---

<sup>3</sup> The legislature has not amended section 624.713 in any relevant part after *Nowels*. *See* Minn. Stat. § 624.713, subd. 1(2) (2024).

<sup>4</sup> In *Nowels*, we did not specify which conviction the district court should vacate. 941 N.W.2d at 443. Here, we instruct the district court to vacate the ammunition conviction because the district court only imposed a sentence on the firearm conviction.