STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1586

State of Minnesota,
Respondent,

vs.

Sandra Jean Roulet,
Appellant.

Filed June 17, 2013
Affirmed
Bjorkman, Judge

Renville County District Court
File No. 65-CR-12-74

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Aaron D. Walton, Olivia City Attorney, Younger & Walton, PLLC, Olivia, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Stephen L. Smith, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Bjorkman, Judge; and Kirk, Judge.

U N P U B L I S H E D O P I N I O N

BJORKMAN, Judge

Appellant challenges the sufficiency of the evidence supporting her misdemeanor theft conviction. We affirm.

FACTS

On February 26, 2012, B.M. and her husband were washing clothes in their apartment building's communal laundry room. They returned to their apartment while their clothes were in a dryer. From her apartment window, B.M. saw another apartment resident, appellant Sandra Roulet, walk toward the laundry room. When B.M. returned to the laundry room, she found their clothes on a table. B.M. and her husband discovered that several items of clothing were missing, including a shirt, a pair of jeans, a mesh bag, two thermal shirts, and a pair of black Rocky-brand thermal underwear. B.M. called the police to report a theft.

Officer Brian Stenholm investigated the report. B.M. told Officer Stenholm that she suspected Roulet stole the clothing. Officer Stenholm went to Roulet's apartment; Roulet told him she had been washing sheets in the laundry room but denied taking B.M.'s clothing. Roulet allowed Officer Stenholm to search her apartment, but the apartment was so full of items that Officer Stenholm could not perform a thorough search and did not find the missing clothing. Roulet also permitted Officer Stenholm to search her car where he found a pair of black Rocky-brand thermal underwear. Roulet claimed that she owns the thermal underwear and uses it as a rag to wipe off her car. B.M. identified the thermal underwear as belonging to her husband, stating that she recognized the thermal underwear by its brand, size, and condition (pilling fabric).

Roulet was charged with misdemeanor theft. During a bench trial, Roulet attempted to submit into evidence a notarized letter from a friend, claiming the thermal underwear belonged to the friend. The district court excluded the letter as hearsay.

Roulet testified that she entered the laundry room, saw clothes piled on a table, but did not take them. The district court found Roulet guilty. This appeal follows.

D E C I S I O N

When reviewing a sufficiency-of-the-evidence challenge, we carefully examine the evidence in the record to determine whether the fact-finder could reasonably find the defendant guilty of the charged offenses. *State v. Pratt*, 813 N.W.2d 868, 874 (Minn. 2012). In doing so, we review the evidence in the light most favorable to the conviction and presume the fact-finder believed the state's witnesses and disbelieved any contrary evidence. *State v. Buckingham*, 772 N.W.2d 64, 71 (Minn. 2009). We defer to the fact-finder's credibility determinations. *Id.* This standard applies to both jury and bench trials. *State v. Hough*, 585 N.W.2d 393, 396 (Minn. 1998).

A conviction based on circumstantial evidence receives heightened scrutiny. *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). We conduct a two-step analysis to evaluate the sufficiency of circumstantial evidence. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012). We first identify the circumstances proved, deferring to the fact-finder's acceptance of the proof of these circumstances and rejection of evidence contrary to the circumstances proved. *State v. Hokanson*, 821 N.W.2d 340, 354 (Minn. 2012), *cert. denied*, 133 S. Ct. 1741 (2013). Then we independently examine "the reasonableness of all inferences that might be drawn from the circumstances proved" without deferring to the fact-finder's choice between inferences. *Al-Naseer*, 788 N.W.2d at 473-74 (quotation omitted). To support a conviction, "the circumstances proved must be consistent with

guilt and inconsistent with any rational hypothesis except that of guilt." *State v. Andersen*, 784 N.W.2d 320, 330 (Minn. 2010).

A person is guilty of misdemeanor theft if he or she (1) intentionally and without claim of right takes, uses, transfers, conceals, or retains possession of another person's movable property (2) without consent and (3) with intent to permanently deprive the owner of possession of the property. Minn. Stat. § 609.52, subd. 2 (1) (2010). Intent is "generally proved circumstantially[] by drawing inferences from the defendant's words and actions." *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997). A fact-finder may infer intent "from the totality of the circumstances." *State v. Raymond*, 440 N.W.2d 425, 426 (Minn. 1989).

Roulet argues that sufficient evidence does not support her conviction. We disagree. First, direct evidence supports the district court's findings that Roulet, without consent, retained possession of thermal underwear that belonged to B.M.'s husband. Officer Stenholm found a pair of thermal underwear in Roulet's car. B.M. testified that the thermal underwear belonged to her husband, and the district court expressly found this testimony credible. And B.M. did not consent to Roulet taking possession of the thermal underwear; she reported the thermal underwear stolen.

Second, circumstantial evidence establishes Roulet's mental state—that she intended to retain and permanently deprive B.M. of the thermal underwear. The district court found the following circumstances proved: B.M. and her husband left clothing in a dryer located in their apartment building's laundry room; B.M. saw Roulet walk toward the laundry room; a short while later, B.M. and her husband discovered that several items

of their clothing were missing, including a pair of black Rocky-brand thermal underwear; Roulet admitted she was in the laundry room; Officer Stenholm found a pair of black Rocky-brand thermal underwear in Roulet's car; and B.M. identified the thermal underwear as belonging to her husband.

Roulet does not argue that she mistakenly took the thermal underwear, or that it got mixed in with the sheets that she was washing. Rather, Roulet asserts that someone else stole the thermal underwear from the laundry room. This is not a reasonable inference given the fact that the thermal underwear was found in Roulet's vehicle. Roulet offers no reasonable explanation as to how the thermal underwear ended up in her vehicle, and the district court expressly discredited her testimony that she did not take the thermal underwear. On this record, the only reasonable inference that can be drawn from the circumstances proved is that Roulet intentionally retained possession of the thermal underwear with no plan to return it to B.M.

Affirmed.