STATE OF MINNESOTA
IN COURT OF APPEALS
A17-2010

In the Matter of the Welfare of: C. J. D., Child

Filed August 20, 2018
Affirmed
Worke, Judge

Steele County District Court
File No. 74-JV-17-924

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

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

Daniel A. McIntosh, Steele County Attorney, Laura E. Isenor, Assistant County Attorney, Owatonna, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Worke, Judge; and Johnson, Judge.

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

WORKE, Judge

Appellant argues that there was insufficient evidence to sustain his conviction. We affirm.

FACTS

At approximately 5:30 p.m. on February 14, 2017, a site manager at Owatonna High School arrived at the small group forum, a room being used as a locker room for the girls

basketball team. The site manager noticed that the room was locked, so she got a key from a coach and unlocked the door so that some players could get their belongings. Later, someone told the site manager that "there was a lot of activity in the hall" and she observed the door to the small group forum shutting, so she became "curious who was going in." The site manager observed appellant C.J.D. in the room, as well as two girls. C.J.D. was standing by an open bag, and the site manager asked him, "What are you doing?" He told her that he was looking in his girlfriend's backpack for her headphones. The site manager asked everyone to leave.

After the game, the site manager told the players to look through their bags. Several girls commented that their belongings were in "disarray" and "not where they had left them." V.C. noticed that "[a]ll [her] stuff was scattered all over, and [her] purse was opened and there w[ere] coins all over. And [she] believed [she] had $10 in there for snacks after the game, and it wasn't in there anymore."

On February 16, 2017, the school resource officer received a report that "a couple nights prior there was a theft from [the] small group forum where the girls basketball team left their items." The resource officer reviewed in-school video, identified C.J.D. from the video, and then spoke with him a couple of days later. C.J.D. admitted that he was in the small group forum, but claimed that he was there to charge his cellphone. C.J.D. denied looking in any bags, and said that he "just sat kind of by the front where there was a plug-in, and that was the only spot that he knew in the school that there was a plug-in." The resource officer had previously observed C.J.D. charging a cellphone in another area of the school.

The resource officer cited C.J.D. for misdemeanor theft. The case proceeded to court trial, at which the resource officer, site manager, and V.C. testified. The district court found C.J.D. guilty and adjudicated him delinquent of theft. The district court acknowledged that there was a possibility that the bags "could have been rifled through by other people other than [C.J.D.][,]" but the district court stated that "[f]anciful possibility, fanciful doubt does not rise to the level of reasonable doubt." The district court sentenced C.J.D. to 12 hours of community service and ordered him to pay $10 in restitution to V.C. This appeal followed.

D E C I S I O N

C.J.D. argues that there is insufficient evidence to support his guilt because the circumstances proved were not inconsistent with the hypothesis that someone else took the money. In considering an insufficient-evidence claim, we review the record to determine whether the evidence, viewed in the light most favorable to the conviction, is sufficient to sustain the verdict. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). We apply the same standard of review in bench trials and jury trials in evaluating the sufficiency of the evidence. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). We assume the fact-finder believed the state's witnesses and disbelieved evidence to the contrary. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989).

When direct evidence of guilt alone is not sufficient to sustain the verdict, this court applies a two-step circumstantial-evidence standard of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). First, we identify the circumstances proved. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). To identify the circumstances proved, we

defer "to the [fact-finder]'s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the [s]tate." *Id.* at 598-99 (quotations omitted). Second, we "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Id.* at 599 (quotations omitted). "We will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture." *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted).

Here, the circumstances proved include: C.J.D. told the resource officer that he was in the small group forum because that was "the only spot that he knew in the school that there was a plug-in" to charge his phone; the resource officer had previously seen C.J.D. charging a phone in a different area of the school; C.J.D. told the resource officer that he had not looked at any bags; the site manager observed C.J.D. in the small group forum leaning over an open bag; C.J.D. told the site manager that he was looking in his girlfriend's backpack for her headphones; when the players returned from the basketball game, their bags had been moved and were in "disarray"; the two girls in the room with C.J.D. were standing "not that close" to him and were "standing . . . facing the door"; the site manager was informed around 6:30 p.m. that there were unknown people in the small group forum; V.C. had never seen anyone in the small group forum other than a coach or player; V.C. checked her bag right before her basketball game and confirmed that she had a $10 bill in her bag for snacks; when V.C. returned to the small group forum, her "stuff was scattered all over, and [her] purse was opened and there w[ere] coins all over. And [she] believed [she] had $10 in there for snacks after the game, and it wasn't in there anymore."

These circumstances are consistent with C.J.D.'s guilt. Additionally, there is direct evidence that C.J.D. was in the small group forum leaning over an open bag and then told the site manager that he was looking in his girlfriend's backpack for headphones. There is also direct evidence that C.J.D. told the resource officer that he had not looked at any bags, which contradicts the site manager's testimony. C.J.D.'s explanation that he was in the small group forum because it was the only place he could charge his phone is also contradicted by the resource officer's testimony that he had previously observed C.J.D. charging a phone elsewhere in the school.

C.J.D. argues that "[a]nyone could have had access to the [small group forum]." However, V.C. testified that she had never seen anyone in the small group forum other than players and coaches. Although the state did not provide sufficient evidence to completely eliminate the possibility that someone else took the $10 bill, the circumstances proved are inconsistent with any rational hypothesis other than C.J.D.'s guilt. Furthermore, this court "will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture." *Al-Naseer*, 788 N.W.2d at 473 (quotation omitted). C.J.D. points to no specific evidence indicating that someone else took the $10 bill. The state presented sufficient evidence of C.J.D.'s guilt.

Affirmed.