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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1571**

State of Minnesota,
Respondent,

vs.

Larhonda Betty Spiller,
Appellant.

**Filed August 5, 2019
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-17-30479

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

Susan L. Segal, Minneapolis City Attorney, Zenaida Chico, Assistant City Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Johnson, Judge; and Hooten, Judge.

UNPUBLISHED OPINION

JOHNSON, Judge

Larhonda Betty Spiller drove a school bus into a minivan in a traffic jam and then drove away. After a court trial, the district court found Spiller guilty of failing to stop after

a motor-vehicle collision. Spiller argues that the evidence is insufficient to prove that she knew or had reason to know that the collision caused damage to the minivan. We conclude that the district court's verdict is supported by sufficient evidence and, therefore, affirm.

FACTS

On October 13, 2017, Spiller was employed by the Minneapolis Public School District as a school-bus driver. At approximately 3:45 p.m., she was driving her regular route, which went through the intersection of 42nd Avenue North and Lyndale Avenue North. Meanwhile, E.B. was driving her sister's minivan after having picked up her children and her sister's children from school. E.B. turned right from a westbound lane of 42nd Avenue North onto northbound Lyndale Avenue North and switched to the left lane. Traffic on Lyndale Avenue North was congested and soon came to a stop due to a passing train just north of the intersection. E.B. shifted the minivan into park while she waited for the train to pass. E.B. noticed that a school bus was pulling up behind her after making a left turn from the eastbound lane of 42nd Avenue North. Because of the congestion, the school bus partially blocked southbound traffic on Lyndale Avenue North. The driver of the school bus, later identified as Spiller, honked at E.B. and crept closer to the minivan. Spiller attempted to drive the school bus around the left side of the minivan, but the school bus made contact with the left rear corner of the minivan, causing the minivan to shake. Spiller reversed a short distance before driving forward again, this time making more forceful contact with the left rear corner of the minivan and pushing the minivan forward by approximately one foot. Spiller's school bus then cleared the minivan, and she drove forward without stopping.

E.B. followed the school bus until she could write down its license-plate number and other identifying information. She called 9-1-1 and later met with Officer Brodin at a parking lot near the intersection. E.B. described the incident to Officer Brodin and gave him the school bus's license plate number. Officer Brodin took photographs of the minivan, which show a dent and scratches on the left corner of the rear bumper.

Later that evening, E.B. reported the incident to the school district. A transportation manager, Roger Martinez, conducted an investigation and confirmed that Spiller was driving the school bus at the intersection of 42nd Avenue North and Lyndale Avenue North at approximately 3:45 p.m. Martinez inspected both the school bus and the minivan. He concluded that Spiller had caused the damage to the minivan and agreed that the school district would pay for repairs to the minivan.

In December 2017, the state charged Spiller with one count of failing to stop after a motor-vehicle collision, in violation of Minn. Stat. § 169.09, subd. 2 (2016). Spiller waived her right to a jury trial. The case was tried to the district court on one day in August 2018. The state called three witnesses: E.B., Officer Brodin, and Martinez. Martinez testified that the damage to the minivan's bumper "lined up" with the damage to the school bus, which bore scratches that were "about three feet long." Martinez testified, "Based on the amount of damage I believe [Spiller] should have known" that an accident had occurred and "should have known that she hit something." The prosecutor followed up by asking, "But in your opinion as an experienced driver, a driver should have known?" Martinez responded in the affirmative.

Spiller took the witness stand in her own defense. She testified that, on the day of the incident, she had been driving school buses for the Minneapolis Public School District for approximately eight months and had driven school buses for more than three years. She testified that she recalled being frustrated by traffic congestion on the day in question and that she honked at E.B. She conceded that there was damage to the school bus, but she denied that the school bus made any contact with the minivan. She also testified that she inspects her school bus every day both before and after driving her route.

The district court filed an order with findings of fact and conclusions of law. The district court found that the extent of the indentation to the rear bumper of the minivan indicated that the school bus had collided with it in a way that “was forceful rather than a tap or ‘touch bump.’” The district court credited E.B.’s testimony that the second contact caused the minivan to move forward approximately one foot. The district court expressly stated that Spiller was not credible in her testimony that she did not make contact with the minivan. The district court also found that Spiller did not stop after the collision. The district court further found that, in light of the photographic evidence of the damage to the minivan, Martinez’s testimony, and Spiller’s experience as a school-bus driver and her familiarity with the bus route, she either knew or should have known that the collision involved damage to the minivan. Accordingly, the district court found Spiller guilty. The district court imposed a sentence of 20 days in the workhouse with 19 days stayed for one year. Spiller appeals.

DECISION

Spiller argues that the evidence is insufficient to support the conviction. The statute setting forth the offense of conviction provides as follows:

The driver of any motor vehicle involved in a collision shall immediately stop the motor vehicle at the scene of the collision, or as close to the collision as possible, and reasonably investigate what was struck. If the driver knows or has reason to know the collision involves damage to a vehicle driven or attended by another, the driver in every event shall remain at the scene of the collision until the driver has fulfilled the requirements of this section as to the giving of information.

Minn. Stat. § 169.09, subd. 2. To satisfy the requirements concerning the giving of information, a driver must provide his or her “name, address, and date of birth and the registration plate number of the vehicle being driven.” *Id.*, subd. 3 (2016).

Spiller contends that the state did not prove beyond a reasonable doubt that she knew or had reason to know that her school bus had collided with and caused damage to the minivan that E.B. was driving. In response, the state argues that the circumstances proved at trial are consistent with a rational hypothesis of guilt and inconsistent with any rational hypothesis other than guilt.

When reviewing the sufficiency of the evidence, this court undertakes “a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient” to support the conviction. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). In doing so, we “assume that the factfinder disbelieved any testimony conflicting with that verdict.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (quotation omitted). A verdict will not be overturned

if the factfinder, “acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *Ortega*, 813 N.W.2d at 100.

The above-stated standard of review applies so long as a conviction is based on direct evidence. *State v. Horst*, 880 N.W.2d 24, 39-40 (Minn. 2016). Direct 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). A conviction depends on circumstantial evidence if proof of the offense, or a single element of the offense, is based solely on circumstantial evidence. *See State v. Fairbanks*, 842 N.W.2d 297, 307 (Minn. 2014).

If a conviction necessarily depends on circumstantial evidence, this court uses a heightened standard of review. *See State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010); *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013). In such a case, we apply a two-step test to determine the sufficiency of the evidence. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). First, we identify the circumstances proved. *Id.* (citing *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010)). “In identifying the circumstances proved, we assume that the [factfinder] resolved any factual disputes in a manner that is consistent with the [factfinder’s] verdict.” *Id.* (citing *Andersen*, 784 N.W.2d at 329). Second, we “examine independently the reasonableness of the inferences that might be drawn from the circumstances proved,” and then “determine whether the circumstances proved are

consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotations omitted). We consider the evidence as a whole rather than examine each piece in isolation. *Andersen*, 784 N.W.2d at 332.

In this case, the parties agree that Spiller’s conviction is based on circumstantial evidence. The parties’ agreement is reasonable because “[k]nowledge is customarily determined from circumstantial evidence.” *State v. Ali*, 775 N.W.2d 914, 919 (Minn. App. 2009), *review denied* (Minn. Feb. 16, 2010). Accordingly, at the first step of the circumstantial-evidence analysis, we must identify the circumstances proved that are relevant to the question whether Spiller knew or had reason to know that her school bus collided with and caused damage to the minivan. *See Moore*, 846 N.W.2d at 88. The relevant circumstances proved are the facts stated above.

At the second step of the analysis, this court must “examine independently the reasonableness of the inferences that might be drawn from the circumstances proved” and “determine whether the circumstances proved are consistent with guilt.” *Id.* (quotations omitted). Spiller concedes that “the facts found by the court describe a hypothesis of guilt.” We agree that the inference that Spiller knew or should have known that her school bus collided with and caused damage to the minivan is a reasonable inference in light of the circumstances proved.

At the second step of the analysis, we also must “determine whether the circumstances proved are . . . inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotations omitted). Spiller contends that the circumstances proved are consistent with a rational hypothesis that she did not know or have reason to know that a collision occurred

because she “was in a vehicle that was much taller, heavier, and sturdier than E.B.’s.” She contends that this hypothesis is rational, particularly in this case, because of the “rumbling and vibrations that accompany train crossings,” because of the “additional traffic and honking” at the intersection, and because of the “additional rumblings of a school bus full of children.” But there is no evidence in the record concerning the height, weight, or sturdiness of the two vehicles, although Martinez testified that the school bus is 40 feet in length. Furthermore, there is no evidence in the record about any “rumblings” or “vibrations” or any evidence that anyone other than Spiller honked a horn. Because such evidence is not in the record, the circumstances on which Spiller relies were not proved. *See Ortega*, 813 N.W.2d at 100; *see also State v. German*, 929 N.W.2d 466, 473-74 (Minn. App. 2019). Because the asserted circumstances were not proved, Spiller cannot rely on them to argue that her not-guilty hypothesis is rational. *See Moore*, 846 N.W.2d at 88.

The circumstances proved suggest that Spiller’s alternative hypothesis is not rational for several reasons. Spiller had been driving school buses for more than three years, which suggests that she was familiar with that type of vehicle and, thus, likely to know if it had collided with another vehicle. After the first contact with the minivan, Spiller put the school bus in reverse before driving forward again in an attempt to drive around the minivan, which indicates that she knew that the minivan had prevented her from driving forward at the first contact. When Spiller attempted to drive past the minivan a second time, the contact was forceful enough to push the minivan forward by approximately one foot—even though the minivan was in park—and indent and scratch the minivan and scratch the school bus, which indicates that she should have known that there was a

collision causing damage. In addition, Martinez testified that Spiller should have known that there was a collision. Thus, the circumstances proved, considered as a whole, indicate that Spiller's alternative, not-guilty hypothesis is not rational.

Spiller contends that her alternative hypothesis finds support in *State v. Al-Naseer*. In that case, the defendant was convicted of criminal vehicular homicide for leaving the scene of a collision that caused the death of a man who had been changing a flat tire on the side of a highway. 788 N.W.2d at 471-72. The defendant argued that the evidence was insufficient to prove that he knew that he had collided with a person or another vehicle. *Id.* at 471-73; *see also* Minn. Stat. § 609.21, subd. 1(7) (2006). The supreme court agreed and reversed the conviction. *Al-Naseer*, 788 N.W.2d at 481. The supreme court explained that it reasonably could be inferred that the defendant was asleep or otherwise unconscious at the time of the collision based on evidence that the defendant's vehicle "did not react to either the noise or jolt of the impact [and] did not swerve, brake, or accelerate, but rather drifted past [the decedent's] vehicle along the shoulder of the road for another 150 feet, and then gradually returned to the highway." *Id.* at 479. Thus, the supreme court concluded that the evidence supported a rational hypothesis that was inconsistent with guilt. *Id.* at 480-81. Unlike the defendant in *Al-Naseer*, Spiller reacted to the initial contact between the vehicles by reversing the school bus and attempting for a second time to drive forward past the minivan. In addition, it is undisputed that Spiller was conscious at all relevant times. Consequently, this case is distinguishable from *Al-Naseer*.

Spiller also contends that the evidence is insufficient because E.B.'s testimony is not credible and is not supported by corroborating testimony. She relies on two opinions

in which the supreme court reversed defendants' convictions. In *State v. Huss*, 506 N.W.2d 290 (Minn. 1993), the appellant was convicted of criminal sexual conduct. *Id.* at 290. The only direct evidence was the testimony of a three-year-old child, whose testimony was internally inconsistent and contradictory. *Id.* at 291-92. In addition, a therapist had exposed the child to highly suggestive material, which may have improperly influenced her testimony. *Id.* at 292-93. In *State v. Langteau*, 268 N.W.2d 76 (Minn. 1978), the appellant was convicted of aggravated robbery based on the uncorroborated testimony of the victim, whose actions were "questionable or unexplained." *Id.* at 77; *see also State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (distinguishing *Langteau* and *Huss*). In this case, however, there are no similar reasons to question E.B.'s competence as a witness. Likewise, there are no reasons to question her credibility, especially in light of the district court's express statement that she credibly testified that the school bus moved the minivan forward by approximately one foot. As the supreme court has stated in an opinion issued after *Langteau* and *Huss*, "a conviction can rest on the uncorroborated testimony of a single credible witness," and the task of determining witness credibility is in the province of the factfinder. *See id.* (quotation omitted).

In sum, the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis that Spiller is not guilty. Therefore, the evidence is sufficient to support Spiller's conviction of failing to stop after a motor-vehicle collision.

Affirmed.