**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A19-1130**

State of Minnesota,
Respondent,

vs.

Derek Alan Olson,
Appellant.

**Filed June 15, 2020**
**Affirmed**
**Larkin, Judge**

Meeker County District Court
File No. 47-CR-17-1146

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

Brandi L. Schiefelbein, Meeker County Attorney, John P. Fitzgerald, Assistant County Attorney, Litchfield, Minnesota (for respondent)

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

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Cochran, Judge.

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

**LARKIN**, Judge

Appellant challenges his convictions for fifth-degree possession of a controlled substance and unlawful possession of ammunition, which stemmed from the discovery of contraband during the execution of a search warrant at a residential property. Appellant argues that the underlying search warrant was not supported by probable cause and that the evidence was insufficient to prove his guilt beyond a reasonable doubt. We affirm.

## FACTS

In November 2017, respondent State of Minnesota charged appellant Derek Alan Olson with third-degree sale of a controlled substance, fifth-degree possession of a controlled substance, and unlawful possession of ammunition. The charges were based on items recovered during the execution of a search warrant at a Litchfield home. The search-warrant affidavit alleged that Olson was "selling methamphetamine" and that he lived "with his mother" at the Litchfield home. The affidavit also stated that the affiant had collected garbage from the home, which had been set out for collection. A search of the garbage revealed 0.1 grams of marijuana concentrate on wax paper, which tested positive for the presence of THC, three empty cans of pure butane gas, and residency documents for two individuals, M.D. and N.O. The affidavit stated that M.D. is Olson's mother. The affidavit also stated: "Your affiant knows from his training and experience that pure butane is used to make marijuana concentrate and possession of marijuana concentrate is a felony."

When officers executed the search warrant, they found several baggies containing methamphetamine, straws used to ingest methamphetamine, shotgun shells, rifle ammunition, and documents listing Olson's address as the Litchfield home. All of those items were found in the home's basement. Olson moved the district court to suppress that evidence, arguing that the warrant "impermissibly relied on an unreliable informant" and that the garbage collection "lacked sufficient probative value to support a search warrant." The district court denied Olson's motion to suppress.

The state dismissed the third-degree sale charge, and the remaining charges were tried to a jury. The jury found Olson guilty of fifth-degree possession of a controlled substance and unlawful possession of ammunition and the district court entered judgments of conviction for both offenses. This appeal followed.

## D E C I S I O N

### I.

Olson contends that the underlying search warrant was not supported by probable cause and that the district court therefore erred by denying his motion to suppress.

The United States and Minnesota Constitutions guarantee "[t]he right of the people to be secure in their persons, houses, papers, and effects" against "unreasonable searches and seizures." U.S. Const. amend. IV; Minn. Const. art. I, § 10. Police generally must obtain a valid search warrant issued by a neutral and detached magistrate before conducting a search. *State v. Yarbrough*, 841 N.W.2d 619, 622 (Minn. 2014). To be valid, a search warrant must be supported by probable cause. U.S. Const. amend. IV; Minn. Const. art. I, § 10. "Probable cause exists if the judge issuing a warrant determines that 'there is a fair

probability that contraband or evidence of a crime will be found.'" *Yarbrough*, 841 N.W.2d at 622 (quoting *Illinois v. Gates*, 462 U.S. 213, 238, 103 S. Ct. 2317, 2332 (1983)). A probable-cause determination "is limited to the information contained in the affidavit offered in support of the warrant application." *State v. Ward*, 580 N.W.2d 67, 71 (Minn. App. 1998).

When determining whether a search warrant is supported by probable cause, this court does not engage in de novo review. *State v. McGrath*, 706 N.W.2d 532, 539 (Minn. App. 2005), *review denied* (Minn. Feb. 22, 2006). Instead, "great deference must be given to the issuing [magistrate's] determination of probable cause." *State v. Valento*, 405 N.W.2d 914, 918 (Minn. App. 1987). "[T]he resolution of doubtful or marginal cases should be largely determined by the preference to be accorded warrants." *State v. Wiley*, 366 N.W.2d 265, 268 (Minn. 1985) (quotations omitted). An appellate court limits its review to whether the issuing magistrate had a substantial basis to conclude that probable cause existed. *Yarbrough*, 841 N.W.2d at 622. In doing so, appellate courts consider the "totality of the circumstances." *Wiley*, 366 N.W.2d at 268.

> The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the "veracity" and "basis of knowledge" of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

*Id.* (quoting *Gates*, 462 U.S. at 238, 103 S. Ct. at 2332). "Elements bearing on this probability include information linking the crime to the place to be searched and the freshness of the information." *State v. Souto*, 578 N.W.2d 744, 747 (Minn. 1998).

If a search-warrant application relies on an informant's tip, the informant's veracity and basis of knowledge are factors to be considered under the totality-of-the-circumstances test. *State v. Holiday*, 749 N.W.2d 833, 839 (Minn. App. 2008). "Minnesota courts have identified six considerations bearing on the reliability of an informant who is confidential but not anonymous to police." *Ward*, 580 N.W.2d at 71. For example:

> (1) a first-time citizen informant is presumably reliable; (2) an informant who has given reliable information in the past is likely also currently reliable; (3) an informant's reliability can be established if the police can corroborate the information; (4) the informant is presumably more reliable if the informant voluntarily comes forward; (5) in narcotics cases, "controlled purchase" is a term of art that indicates reliability; and (6) an informant is minimally more reliable if the informant makes a statement against the informant's interests.

*State v. Ross*, 676 N.W.2d 301, 304 (Minn. App. 2004), *review denied* (Minn. June 15, 2004).

Veracity can be established "by showing that details of the tip have been sufficiently corroborated so that it is clear the informant is telling the truth." *State v. Siegfried*, 274 N.W.2d 113, 115 (Minn. 1978). But an informant's reliability is "not enhanced if the informant merely gives information that is easily obtained." *Ross*, 676 N.W.2d at 304. "Recent personal observation of incriminating conduct has traditionally been the preferred basis for an informant's knowledge." *Wiley*, 366 N.W.2d at 269.

In challenging probable cause for the search warrant, Olson first argues that the informant's unsupported allegation that he was selling methamphetamine did not establish probable cause. For the reasons that follow, we agree.

As to the informant's reliability in this case, the search-warrant application provided:

> Your affiant talked to a person wanting to provide information to the task force, he/she is wishing to remain anonymous but is known to your affiant. He/she said Derek Olson is selling methamphetamine. He/she said Olson lives with his mother [at the Litchfield home]. I learned Derek Olsen is, Derek Alan Olson . . . . He/she positively identified Olson in front of [the Litchfield home]. Your affiant confirmed with Litchfield Police Officer Aaron Nelson that Derek Alan Olson lives with his mother at [the Litchfield home]. Your affiant learned that [M.D.] . . . is Derek Olson's mother.

Given the limited information regarding the informant and the basis for the informant's knowledge, as well as the lack of a controlled purchase, the only applicable *Ross* reliability factor is the third one: "an informant's reliability can be established if the police can corroborate the information." 676 N.W.2d at 304. The only part of the informant's tip that the police corroborated was that Olson lived at the Litchfield home with his mother, information that was easily obtained. We therefore agree with Olson that the informant's tip alone did not establish probable cause for a search warrant.

Olson next argues that the results of the garbage search did not provide probable cause to believe contraband would be found in the home. "Contraband seized from a garbage search can provide an independent and substantial basis for a probable-cause determination." *McGrath*, 706 N.W.2d at 543. For example, in *State v. Papadakis*, an officer collected and searched the defendant's garbage and discovered correspondence addressed to the defendant, a spoon with burn marks on the bottom, and plastic bags with drug residue later identified as cocaine. 643 N.W.2d 349, 353 (Minn. App. 2002). Based

on that discovery, officers obtained and executed a search warrant at the defendant's home. *Id.* The defendant challenged the validity of the warrant. *Id.* at 355. On appeal, this court concluded that the garbage search provided an independent and substantial basis for the search warrant because the cocaine residue in the trash "independently confirm[ed [the officer's] suspicion that contraband might be found in [the defendant's] residence." *Id.* at 356.

Similarly, in *McGrath*, an officer collected and searched garbage that had been set out for pickup outside a home linked with drug use. 706 N.W.2d at 537. During one search, the officer located a plastic bag that "smelled of and contained traces of marijuana," and during another found two plastic bags that he believed contained marijuana. *Id.* A third search revealed a plastic bag with suspected marijuana residue. *Id.* Each bag later tested positive for the presence of marijuana. *Id.* Based on the results of the search, the police obtained and executed a search warrant for the home and seized cocaine and marijuana. *Id.* at 537-38. The district court suppressed the evidence, reasoning in part that because the bags of marijuana merely supplied evidence of noncriminal, personal use of marijuana, the bags seized during the garbage searches did not establish an independent basis for probable cause. *Id.* at 538. The state appealed, and this court concluded that the bags provided probable cause for the warrant. *Id.* at 543-45. This court reasoned that "Minnesota caselaw does not support the district court's determination that small, noncriminal amounts of marijuana cannot establish a fair probability that evidence of a crime or contraband will be found in a particular place" and concluded that "the plastic

bags with marijuana residue provided an independent and substantial basis to establish probable cause to issue a search warrant." *Id.* at 544.

Olson argues that the marijuana concentrate discovered in the garbage search in this case did not provide probable cause to believe marijuana would be found in the Litchfield home. He cites *Souto* for the principle that a warrant application must provide "a direct connection, or nexus, between the alleged crime and the particular place to be searched." 578 N.W.2d at 747. Olson argues that because the garbage search did not reveal any evidence supporting the allegation that he was selling methamphetamine, the results of that search "undercut the accusation that formed the primary basis for the warrant application." However, the search-warrant application sought controlled substances "including, but not limited to, methamphetamine." The marijuana concentrate and empty cans of butane gas recovered from the garbage confirmed law enforcement's suspicion that drugs or contraband might be present in the Litchfield home.

Olson next argues that "the single garbage search resulting in a miniscule amount of marijuana concentrate smeared on a discarded piece of wax paper did not establish a fair probability that drugs existed in the house at the time of the search." That argument focuses on the temporal connection between the garbage search and the warrant execution. *See id.* (discussing the "freshness of the information" set forth in support of probable cause). Olson cites cases from other jurisdictions in support of his argument that "[a] tiny amount of marijuana concentrate in the garbage says next-to-nothing about whether drugs might still be in the house." Olson also distinguishes Minnesota's caselaw upholding probable-cause determinations based on garbage searches, noting that the probable-cause

determinations in those cases were based on more than just the discovery of controlled-substance residue in a single garbage search. *See McGrath*, 706 N.W.2d at 543 (involving three garbage searches, which uncovered four plastic bags that tested positive for marijuana); *Papadakis*, 643 N.W.2d at 353 (involving garbage search that uncovered correspondence addressed to the defendant, cocaine residue, and drug paraphernalia).

Olson's argument ignores the probative value of the three empty butane cans that were found in the garbage search and the affiant's statement that he knew "from his training and experience that pure butane is used to make marijuana concentrate and possession of marijuana concentrate is a felony." Indeed, Olson suggests that this court cannot consider whether the butane cans provided probable cause because "[t]hat is not what the issuing magistrate concluded."

A probable-cause determination must be based on the totality of the circumstances, as set forth in the search-warrant affidavit. *Wiley*, 366 N.W.2d at 268. Olson does not cite, and we are not aware of, authority prohibiting a reviewing court from considering information set forth in a supporting affidavit that supports a finding of probable cause simply because the issuing judge did not state whether that information influenced her analysis. *See Gates*, 462 U.S. at 238-39, 103 S. Ct. at 2332 ("[T]he duty of a reviewing court is simply to ensure that the magistrate had a substantial basis for concluding that probable cause existed" (quotation omitted)). We decline to adopt Olson's reasoning because ignoring such supportive information is inconsistent with the requirement that we give great deference to the initial probable-cause determination. Moreover, we will not reverse a correct decision simply because it is based on incorrect reasoning. *Kahn v. State*,

289 N.W.2d 737, 745 (Minn. 1980). We therefore consider whether the discovery of the butane cans in the garbage search supports the issuing judge's probable-cause determination.

The presence of three empty butane cans suggested more sophisticated, ongoing manufacture and possession of marijuana concentrate, a potential felony offense. *See* Minn. Stat. §§ 152.02, subd. 2(h) (Supp. 2017) (listing marijuana and THC as schedule I drugs), .025, subds. 2, 4 (2016) (making it a felony to possess a schedule I drug over a specified weight or dosage, except "a small amount of marijuana"), .01, subd. 16 (2016) (excluding from the definition of a "[s]mall amount" of marijuana the "resinous form"). Based on the great deference that must be given to the issuing judge's initial probable-cause determination and our resolution of doubtful or marginal cases in accordance with the preference for warrants, we conclude that the discovery of marijuana concentrate and empty butane cans in garbage recovered from the Litchfield home provided a substantial basis to conclude that probable cause existed to search the home. The district court therefore did not err by denying Olson's motion to suppress.

**II.**

Olson contends that the evidence does not support his convictions. He argues that the circumstantial evidence permits a rational inference that one of the Litchfield home's other residents "possessed the contraband."

In considering Olson's claim, we must carefully analyze the record to determine whether the evidence, viewed in a light most favorable to the conviction, was sufficient to permit the jury to reach its verdict. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989).

We "assume that the jury believed the state's witnesses and disbelieved contrary evidence." *State v. Brocks*, 587 N.W.2d 37, 42 (Minn. 1998). We will not disturb a guilty verdict if the jury, acting with due regard for the presumption of innocence and requirement of proof beyond a reasonable doubt, could reasonably have concluded that the state proved the defendant's guilt. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

When the state relies on circumstantial evidence to prove an element of an offense, we apply a heightened standard of review. *See State v. Harris*, 895 N.W.2d 592, 601-03 (Minn. 2017) (applying circumstantial-evidence standard to individual element of criminal offense that was proved by circumstantial evidence). Circumstantial evidence is "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist." *Id.* at 599 (quotations omitted). In contrast, direct evidence is "evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption." *Id.* (quotations omitted). Circumstantial evidence always requires an inferential step that is not required with direct evidence. *Id.*

Because the state relied on circumstantial evidence to prove Olson's possession of the methamphetamine and ammunition, we apply the two-step circumstantial-evidence standard of review. First, we determine the circumstances proved, "disregard[ing] evidence that is inconsistent with the jury's verdict." *Id.* at 601. Next, we "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt." *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017) (quotation omitted). We do not defer to the jury's choice between reasonable inferences. *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013). But we will reverse a conviction

based on circumstantial evidence only if there is a reasonable inference other than guilt. *Loving*, 891 N.W.2d at 643.

"To successfully challenge a conviction based upon circumstantial evidence, a defendant must point to evidence in the record that is consistent with a rational theory other than guilt." *State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002). A defendant may not rely on mere conjecture or speculation, but must instead point to specific evidence in the record that is consistent with innocence. *State v. Al-Naseer*, 788 N.W.2d 469, 480 (Minn. 2010); *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008). "[P]ossibilities of innocence do not require reversal of a jury verdict so long as the evidence taken as a whole makes such theories seem unreasonable." *Taylor*, 650 N.W.2d at 206 (quotation omitted).

At issue is whether Olson possessed the methamphetamine and ammunition found in the basement. Possession "may be proved through actual or constructive possession." *State v. Salyers*, 858 N.W.2d 156, 159 (Minn. 2015). "Actual possession, also referred to as physical possession, involves direct physical control." *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016) (quotation omitted). Because the evidence did not show Olson's actual possession of the items at issue, we turn to constructive possession. The purpose of the constructive-possession doctrine is to establish possession in cases where the state cannot prove actual or physical possession at the time of arrest, but where "the inference is strong that the defendant at one time physically possessed the [item] and did not abandon his possessory interest in the [item] but rather continued to exercise dominion and control over it up to the time of the arrest." *State v. Florine*, 226 N.W.2d 609, 610 (Minn. 1975).

To establish constructive possession, the state must show either (1) the prohibited item was found "in a place under [the] defendant's exclusive control to which other people did not normally have access" or (2) if police found the prohibited item "in a place to which others had access, there is a strong probability (inferable from other evidence) that [the] defendant was at the time consciously exercising dominion and control over it." *Id.* at 611. "Proximity is an important consideration in assessing constructive possession." *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000), *review denied* (Minn. Jan. 16, 2001).

In *Salyers*, the supreme court concluded there was sufficient evidence to establish exclusive control of firearms that had been found in a locked safe, in a bedroom, where the defendant was the only person who resided at the home. 858 N.W.2d at 157, 160-61. Unlike *Salyers*, the evidence in this case indicated that other people resided in the Litchfield home, and the record does not suggest that Olson exclusively controlled the basement. We therefore consider whether there is a strong probability that Olson exercised dominion and control over the methamphetamine and ammunition.

We begin with the circumstances proved. The Litchfield home contained two bedrooms on the main floor and one bedroom in the basement. Agent Ryan Schutz observed Olson outside the Litchfield home prior to the search, and officers found a number of Olson's personal documents in the basement bedroom during the search, including his Social Security card, expired driver's license (listing the Litchfield home as his address), 2014 paystubs, vehicle title (listing the Litchfield home as his address), a "legal court document" (listing the Litchfield home as his address), and a letter addressed to Olson at the Litchfield home. The basement bedroom also contained adult-male clothing. It was

the only location in the residence where Olson's personal documents were found. Residency documents for M.D. and N.O., the home's other residents, were found in the other bedrooms, but not the basement bedroom.

Second, in the basement bedroom, law-enforcement officers found approximately 30 methamphetamine paraphernalia items, including baggies that contained methamphetamine, snort tubes, and tinfoil containing trace amounts of methamphetamine. The officers also found 44 rounds of ammunition. The officers found methamphetamine under the bed in the basement bedroom and on a desk next to the bed. The officers also found Olson's Social Security card, expired driver's license, and a letter addressed to him on the desk. The officers found Olson's legal document and a baggie containing methamphetamine on the basement couch. The officers found ammunition on shelving in the basement bedroom, as well as Olson's old paystubs and his vehicle title. The basement bedroom was the only location in the residence where officers found methamphetamine and ammunition.

The circumstances here are similar to those in decisions indicating that constructive possession can be established based on the presence of contraband near documents bearing the defendant's name. For example, in *State v. Mollberg*, the supreme court concluded that there was sufficient evidence that the defendant exercised dominion and control over marijuana found in a bedroom closet. 246 N.W.2d 463, 472 (Minn. 1976). The defendant frequently stayed at the residence, "there were numerous letters addressed to [the] defendant scattered on the floor of the bedroom," and part of the defendant's motorcycle was in the bedroom. *Id.*

Similarly, in *State v. Denison,* law enforcement found marijuana "located in close proximity" to the defendant's "personal effects" and in areas where she "likely exercised at least joint dominion and control." 607 N.W.2d 796, 800 (Minn. App. 2000), *review denied* (Minn. June 13, 2000). This court concluded both that there was sufficient evidence of constructive possession, and that the defendant's alternative hypothesis that she was "merely a passive resident of the house" was not rational. *Id.*; *see also State v. Colsch*, 284 N.W.2d 839, 841 (Minn. 1979) (concluding that the evidence was sufficient to prove that defendant constructively possessed drugs found in bedroom where male clothing was found, as well as papers and a checkbook bearing the defendant's name).

Olson argues that "the state did not prove [he] lived in the house at issue." But the state presented considerable evidence showing that Olson resided in the basement. He had been seen outside the residence, law-enforcement officers found adult-male clothing and a number of his personal documents in the basement bedroom, and some of those documents listed the Litchfield home as his residence. Viewing that evidence in a light most favorable to the verdict, as we must, the state proved that Olson resided in the basement bedroom. *See Webb*, 440 N.W.2d at 430.

Olson also argues that, even if the state proved constructive possession of the methamphetamine, it did not prove constructive possession of the ammunition. We disagree. Both the ammunition and methamphetamine were found in close proximity to Olson's possessions. Law-enforcement officers found Olson's old paystubs and vehicle title on the same shelving where they found the ammunition. The officers did not find Olson's personal documents or ammunition anywhere else in the residence. To the extent

that Olson argues that the state needed to prove actual possession of the ammunition, he is incorrect. The constructive-possession doctrine applies when there is no proof of physical or actual possession. *Florine*, 226 N.W.2d at 610 (applying constructive-possession doctrine after noting that "there was no evidence of actual or physical possession by defendant when arrested").

In sum, the evidence at trial indicated a "strong probability" that Olson exercised dominion and control over the illicit items. *See id.* at 611. The circumstances proved are therefore consistent with guilt.

We next consider whether the circumstances proved are inconsistent with any rational hypothesis other than guilt. *Harris*, 895 N.W.2d at 600-01. Olson asserts that the circumstances support a rational hypothesis that the methamphetamine and ammunition belonged to one of the house's other residents. Olson argues that Agent Schutz's responses to questioning during cross-examination at trial "acknowledged that the evidence did not exclude the reasonable hypothesis that someone other than [him] possessed the contraband." For example, Agent Schutz acknowledged that he did not know when the methamphetamine paraphernalia had been used or when the ammunition was brought to the house; he also acknowledged that he could not rule out N.O. as the owner of those items. Relying on Agent Schutz's acknowledgments, Olson concludes that "[i]n order to be sufficient, the circumstances proved had [to] rule out the rational hypothesis that someone besides Olson had brought the contraband into the house and had used the drugs" and that "the circumstances proved did nothing of the kind."

Olson's reliance on Agent Schutz's responses to cross-examination is unavailing because those responses merely identified circumstances that were unknown and could not be ruled out. The responses are not evidence that someone other than Olson possessed the drugs and ammunition that were found near his possessions in the home. Once again, a reasonable hypothesis is one that is not based on speculation or conjecture; there must be evidence in the record to support it. *Al-Naseer*, 788 N.W.2d at 480; *Tscheu*, 758 N.W.2d at 858. Olson does not point to any record evidence that supports his theory that the contraband belonged to someone other than himself. Because the record does not contain evidence supporting Olson's hypothesis of innocence, it is not reasonable. Instead, it is based on speculation and conjecture, which do not provide a basis to reverse a jury's determination of guilt.

Olson cites an unpublished opinion from this court to support his alternative hypothesis that someone else possessed the contraband. Unpublished opinions are not precedential, but may hold persuasive value. *Skyline Vill. Park Ass'n v. Skyline Vill. L.P.*, 786 N.W.2d 304, 309-10 (Minn. App. 2010). However, the case that Olson relies on, *State v. Christensen*, supports our conclusion that Olson failed to present a reasonable hypothesis of innocence. No. A11-2258, 2012 WL 5990236, at *1-5 (Minn. App. Dec. 3, 2012), *review denied* (Minn. Jan. 29, 2013).

In *Christensen*, officers executed a search warrant at a home and found cocaine in a pair of pants in a bedroom closet. *Id.* at *1. In the bedroom, an officer also found mail containing the defendant's name. *Id.* The officer found a scale commonly used to weigh narcotics in the home's kitchen. *Id.* On appeal, this court determined that the

circumstances proved established that the defendant had been partying with ten other people in the home the night before the cocaine was discovered. *Id.* at *3. Six of those people stayed overnight, "one having occupied the same bedroom" where the cocaine was found, and those "six people remained in the house for at least an hour after [the defendant] left the house." *Id.* The six other people had unfettered access to the bedroom where the cocaine was found. *Id.* Moreover, the six other people refused to exit the home earlier because they knew that police were waiting for them outside. *Id.* This court concluded that the circumstances proved supported the defendant's alternative inference, reasoning that "[a] logical conclusion from this evidence is that somebody other than [the defendant] placed the cocaine in the pocket of [the defendant's] pants." *Id.*

This case is distinguishable from *Christensen*. Law-enforcement officers did not find contraband in the kitchen of the Litchfield home. They found all of the contraband in the basement bedroom. And there was no evidence that a group of people were using drugs in the Litchfield home the night before the warrant was executed, that those people were still present when the police arrived to execute the warrant, or that another person had occupied the basement bedroom where the controlled substances and ammunition were found. In sum, the record in *Christensen* contained evidence that supported an alternative hypothesis that someone other than the defendant placed the cocaine in the pants pocket. Olson does not point to comparable record evidence here. Instead, he relies on speculation and conjecture in the form of circumstances that are unknown and that cannot be ruled out. That approach does not establish a reasonable hypothesis of innocence.

Because the record does not contain evidence supporting Olson's alternative hypothesis of innocence, it is based on conjecture and it is unreasonable. Because the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt, we do not disturb the jury's guilty verdict.

**Affirmed.**