

*This opinion is nonprecedential except as provided by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
A21-1544**

State of Minnesota,
Respondent,

vs.

Richard Alan Quarles,
Appellant.

**Filed October 31, 2022
Affirmed
Gaïtas, Judge**

Dakota County District Court
File No. 19HA-CR-18-1662

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

Kathryn M. Keena, Dakota County Attorney, Jessica A. Bierwerth, Assistant County Attorney, Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Worke, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Richard Alan Quarles challenges his conviction, following a court trial, for possession of a firearm by an ineligible person, arguing that the trial evidence was insufficient to establish that he possessed a gun found under the passenger seat of an

unoccupied car. Because respondent State of Minnesota proved beyond a reasonable doubt that Quarles constructively possessed the gun, we affirm.

FACTS

After D.K. reported to police that Quarles was using D.K.'s townhouse to make and sell crack cocaine, police obtained a warrant and searched the home. They found several guns, magazines, bullets, cocaine, scales, and evidence of drug manufacturing. Quarles was charged with multiple offenses based on this evidence. Following a court trial, the district court found Quarles guilty of two crimes—third-degree drug sale and possession of a firearm by an ineligible person. On appeal, Quarles only challenges the gun-possession conviction, arguing that the trial evidence was insufficient to prove that he possessed a gun that police found under the passenger seat of D.K.'s parked car.

The trial evidence was as follows. In June 2018, D.K. went to the Eagan Police Department to speak with officers about illicit activity happening at his townhome. D.K. reported that he was addicted to crack cocaine, that Quarles was his drug dealer, and that he had allowed Quarles to move into his home when he could not pay his drug debt. He informed the police that Quarles “cooked” crack cocaine in the residence. D.K. also told the police that he was required to drive Quarles to drug transactions using his Toyota Camry. He asked the police to help him with his situation.

When the police entered D.K.'s home with a search warrant, they found Quarles and his partner sleeping in a bedroom. In the adjoining bathroom, the police found a coffee filter containing a large amount of suspected cocaine. A Toyota Camry was parked in the

garage. The car was registered to D.K., but the title had been transferred to Quarles. Officers found a gun under the Camry's front passenger seat.

Quarles admitted to the police that he had signed the title to the Camry; he said he was in the process of purchasing it. He told officers that he had been in the passenger seat of the Camry the day before the search. Quarles explained that he was a passenger because he does not have a valid driver's license. He also stated, "I ride in that car." But Quarles denied knowing about the gun, and he insisted that his DNA would not be on it.

Forensic analysis of the gun revealed that the grip contained a mixture of DNA from three or more individuals. The major DNA profile matched Quarles's DNA. That profile would not be expected to occur more than once among unrelated individuals.

At Quarles's court trial, D.K., police officers, and forensic analysts testified for the state. The state also presented evidence that Quarles had a previous felony conviction, which prohibited him from possessing a firearm. Quarles waived his right to testify and did not call witnesses or present evidence.

In a detailed order, the district court concluded that the evidence proved beyond a reasonable doubt that Quarles possessed the gun found under the passenger seat of the Camry.¹ The district court entered a conviction for possession of a firearm by an ineligible

¹ D.K. was given use immunity for his testimony, which prevented the state from using his incriminating testimony against him in any criminal case. *See* Minn. Stat. § 609.09, subd. 1 (2020). The district court accordingly noted that it viewed D.K.'s testimony with "great scrutiny."

person, Minn. Stat. § 624.713, subd. 1(2) (2016), and sentenced Quarles to 60 months in prison for this offense.²

DECISION

Quarles argues that the trial evidence was insufficient to support his conviction for possession of a firearm by an ineligible person. He contends that the evidence that he possessed the firearm found under the passenger seat of the Toyota Camry was purely circumstantial. And, according to Quarles, because the circumstantial evidence was equally consistent with his trial theory that D.K. or someone else possessed the gun, his conviction must be reversed. We conclude that the circumstantial evidence only supports one reasonable theory—that Quarles possessed the gun—and we affirm.

In a criminal case, due process requires the prosecution to prove every element of the charged crime beyond a reasonable doubt. *State v. Culver*, 941 N.W.2d 134, 142 (Minn. 2020). Quarles challenges the sufficiency of the state’s evidence underlying one element of the gun-possession offense—the element of possession. To convict Quarles of possession of a firearm by an ineligible person, the state was required to prove—among other elements—that Quarles knowingly possessed a firearm. *See* Minn. Stat. § 624.713, subd. 1(2); *see also* 10A *Minnesota Practice*, CRIMJIG 32.17 (Supp. 2021). “Possession may be proved through evidence of actual or constructive possession.” *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). Here, Quarles was not in actual, physical possession of the gun when the police found it. *See State v. Barker*, 888 N.W.2d 348, 353 (Minn.

² The district court also imposed a concurrent sentence of 21 months for the third-degree drug offense that is not at issue in this appeal.

App. 2016) (defining actual possession as the exercise of “direct physical control” over an object). Thus, to establish the element of possession, the state was required to prove beyond a reasonable doubt that Quarles constructively possessed the gun.

Constructive possession may be established in two ways. *Harris*, 895 N.W.2d at 601. The state must show either (1) the “police found the item in a place under the defendant’s exclusive control to which other people normally did not have access,” or (2) if others had access, “there is a strong probability (inferable from other evidence) that at the time the defendant was consciously or knowingly exercising dominion and control over it.” *Id.* “[C]onstructive possession need not be exclusive, but may be shared.” *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000), *rev. denied* (Minn. Jan. 16, 2001).

We next identify the standard of review that we must apply in considering whether the state’s evidence was sufficient to prove that Quarles constructively possessed the gun. “[Appellate courts] use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). As a general matter, we must view the evidence “in the light most favorable to the verdict, and it must be assumed that the fact-finder disbelieved any evidence that conflicted with the verdict.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (citing *Palmer*, 803 N.W.2d at 733).

But the level of scrutiny that the appellate court applies turns on whether the elements of an offense are supported by direct or circumstantial evidence. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). Direct evidence is “based on personal knowledge or observation and . . . proves a fact without inference or presumption.” *Harris*,

895 N.W.2d at 599 (quotations omitted). Circumstantial evidence “always requires an inferential step to prove a fact that is not required with direct evidence.” *Id.* When the trial evidence supporting an element of an offense was entirely circumstantial, an appellate court more closely scrutinizes the sufficiency of that evidence. *State v. Al-Naseer*, 788 N.W.2d 469, 474-75 (Minn. 2010). The state concedes that the evidence that Quarles constructively possessed the gun was entirely circumstantial. Thus, the state agrees that, in reviewing the sufficiency of that evidence, we must apply the heightened standard of review for circumstantial evidence.

The circumstantial-evidence standard requires a two-step process. *Silvernail*, 831 N.W.2d at 598. “The first step is to identify the circumstances proved.” *Id.* A reviewing court assumes the trier of fact believed the state’s witnesses and rejected all evidence contrary to the verdict; all conflicting evidence is resolved in the state’s favor. *See State v. Tscheu*, 758 N.W.2d 849, 857-58 (Minn. 2008). In the case of a trial to the court, we defer to the district court’s conclusions and reject evidence in the record that conflicts with those conclusions. *Palmer*, 803 N.W.2d at 733. The second step is to “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotation omitted). During this step of the analysis, we do not defer to the factfinder’s choice between reasonable inferences. *State v. Andersen*, 784 N.W.2d 320, 329-30 (Minn. 2010). “Circumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *Al-Naseer*, 788 N.W.2d at 473 (quotation omitted).

Applying this standard of review, we consider whether the state's trial evidence established, beyond a reasonable doubt, that Quarles constructively possessed the gun found under the passenger seat of the Toyota Camry. We first identify the circumstances proved as follows. Quarles was in the business of selling illegal controlled substances. Trial testimony established that the use of weapons is often associated with the sale of illegal controlled substances. The last time Quarles rode in the Camry, he was seated in the passenger seat. The gun was located under the passenger seat of the Camry. Quarles signed the title to the Camry. He told the police he did not drive the car because his driver's license was not valid. Quarles also admitted to the police that he was in the car the previous day. Forensic analysis revealed that Quarles's DNA was the major profile in a mixture of DNA found on the gun's grip. Accidental or inadvertent transfer of Quarles's DNA onto the grip of the gun was unlikely due to the location of the gun under the passenger seat, an area that is typically accessed intentionally.

We next examine the reasonable inferences that may be drawn from the circumstances proved. These inferences are consistent with Quarles's guilt. As a drug seller, Quarles had a reason to possess a gun. By taking title to the Camry and using it for drug errands, Quarles exercised control over the car. The location of the gun—under the seat that Quarles typically occupied—indicates that Quarles exercised control over the gun. And the evidence of Quarles's DNA on the gun's grip is consistent with the inference that Quarles handled the gun.

Quarles argues that the circumstances proved also support a reasonable inference that someone else possessed the gun. He points out that more than one person had access

to the Camry, noting the trial testimony that both D.K. and Quarles’s partner had access to the car. He highlights the evidence that three or more DNA profiles were found on the gun grip. And he notes that, even if he touched the gun, “fleeting possession” does not establish unlawful possession. *See State v. Houston*, 654 N.W.2d 727, 735 (Minn. App. 2003), (holding that defendant was entitled to a jury instruction on “fleeting control” under the particular facts of the case), *rev. denied* (Minn. Mar. 26, 2003). Given these circumstances, Quarles argues that our decision in *State v. Sam*, 859 N.W.2d 825 (Minn. App. 2015)—where we found insufficient circumstantial evidence to support a drug conviction—requires reversal here. We disagree.

Initially, we note that the facts in *Sam* are quite different than the circumstances here. In *Sam*, police stopped a car occupied by two people. 859 N.W.2d at 828. Sam was the driver, although he was not the car’s owner. *Id.* Before the car stopped, police observed the passenger make a sudden movement toward the center of the car. *Id.* Police searched the car, finding drugs and a gun in the center console. *Id.* at 829. At trial, Sam was convicted for possessing the illicit items in the car. *Id.* In reversing Sam’s convictions for insufficient evidence, we stated that Sam’s status as the driver of the car was not alone sufficient to prove his “exercise of dominion and control over the drugs and the gun found therein.” *Id.* at 834. Here, unlike *Sam*, Quarles had title to the Toyota Camry. And unlike *Sam*, the illegal item was found directly under the car seat that Quarles used. We therefore are not persuaded that *Sam* requires reversal of his conviction.

Nor are we persuaded that it is reasonable to infer from the circumstances proved that someone other than Quarles possessed the gun. In addition to the evidence about the

gun's location, the state's other evidence tied the gun to Quarles. Quarles's DNA was on the grip of the gun. And the state established that Quarles, who was in the drug business, had a reason for possessing a gun.

But even if someone else also could have possessed the gun, this inference alone does not support a reasonable hypothesis that Quarles did *not* possess the gun. Because constructive possession can be joint, *Sam*, 859 N.W.2d at 834, speculation that another person also may have possessed the gun does not establish a reasonable inference other than guilt.

Quarles also challenges some of the district court's factual findings. He contends that the district court should not have relied on the DNA evidence to conclude that he handled the gun because it is possible that it was "transfer DNA." But the district court specifically considered and rejected this theory as unreasonable. Additionally, Quarles argues that the record does not support the district court's finding that Quarles was the last person to ride in the passenger seat of the Camry because D.K. testified that both Quarles and his partner used the car immediately before the search. Based on our review of the record, however, the district court's finding is well founded. D.K. testified that he always drove while Quarles sat in the passenger seat of the car. Quarles also told the police that he did not drive because his license was invalid and that he had recently been in the passenger seat.

A reviewing court should not "overturn a conviction based on circumstantial evidence on the basis of mere conjecture." *Al-Naseer*, 788 N.W.2d at 473 (quotation omitted). Quarles's argument that he did not possess the gun is based on conjecture alone.

The record contains no evidence that reasonably supports Quarles's theory that someone else—D.K., Quarles's partner, or another person—possessed the gun.

Instead, the circumstantial evidence leads directly to the conclusion that Quarles possessed the gun while excluding, beyond a reasonable doubt, any reasonable inference other than guilt. *See id.* We therefore reject Quarles's challenge to the sufficiency of the evidence underlying his conviction for possession of a firearm by an ineligible person.

Affirmed.