

*This opinion is nonprecedential except as provided by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
A22-1275**

State of Minnesota,
Respondent,

vs.

Nicolle Lynn Lozier,
Appellant.

**Filed July 10, 2023
Affirmed
Ross, Judge**

Roseau County District Court
File No. 68-CR-21-163

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

Kristy Kjos, Roseau County Attorney, Michael P. Grover, Assistant County Attorney,
Roseau, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

ROSS, Judge

A Roseau County jury heard testimony that Nicolle Lozier and her boyfriend borrowed Lozier's friend's car and kept it for one week (and then wrecked it while fleeing from police), despite the friend's permitting them to use it only for 24 hours. The jury also

heard testimony from Lozier that, although her boyfriend drove the car for most of the week, she drove the car in the Twin Cities. The jury found Lozier guilty of motor-vehicle theft. Lozier appeals from her conviction, arguing that the evidence was insufficient to prove the venue element of the offense. Because venue is appropriate in any county where the stolen property is or has been located, we reject the argument and affirm the conviction.

FACTS

A woman, whom we call Taylor in the interest of her privacy, reported to Roseau County Sheriff's Deputy Bruce Hanson on December 31, 2020, that her car had been stolen. She told Deputy Hanson that she lent the car to her friend Nicolle Lozier three days earlier, granting Lozier and her boyfriend permission to use it for only one day. Deputy Hanson recorded the car as stolen in the nationwide police database.

The day before this report, police in Minnetonka encountered the car due to its relationship to a different crime, and Golden Valley police chased it after it accelerated rapidly when officers tried to stop it. The law enforcement database alerted police that the car involved in the Twin Cities flight was the one reported stolen in Roseau County. A Golden Valley police officer spoke with Deputy Hanson, and they surmised that Frankie Warledo, Lozier's boyfriend, had been the driver and Lozier was the passenger.

Police last encountered the car in North Dakota on January 4, 2021. The car first fled from Fargo police in Cass County, North Dakota, then it fled from sheriff's deputies at speeds up to 120 miles per hour in Traill County, and finally sheriff's deputies in Grand Forks County deflated its tires and chased it into a ditch. Warledo, who was driving, and

Lozier, who was the sole passenger, jumped from the ditched car and began running away. Deputies caught and arrested them.

The State of Minnesota charged Lozier with motor-vehicle theft.

At trial, Taylor testified about her agreement allowing Lozier to borrow the car. She said that Lozier told her that she and Warledo needed a way to travel from Lozier's parents' home in Roseau County to the Twin Cities. She agreed to let Lozier and Warledo drive the car to Thief River Falls for an oil change and return to pick up Taylor in Strathcona. The three would then travel to the Twin Cities together. Taylor emphasized that Lozier and Warledo were both parties to the agreement to use the car.

Lozier testified in her own defense, asserting that she had not been party to Taylor's agreement to lend Warledo her car. She claimed that Warledo came into her parents' house where she was resting and told her that Taylor had agreed to let him take the car to St. Paul for a few days. She added that Warledo drove the car in Roseau County and most of the time they possessed it. She admitted that she drove the car while they were in the Twin Cities.

The jury found Lozier guilty of motor-vehicle theft. The district court sentenced her to fifteen months in prison but stayed execution of the prison term for five years on probationary terms. Lozier appeals her conviction.

DECISION

Lozier challenges her conviction by maintaining that the evidence did not prove venue in Roseau County, where she was tried and found guilty. Specifically, she maintains that the evidence failed to establish that she took or drove the stolen car in Roseau County.

Lozier frames her challenge as one contesting the sufficiency of the evidence. We review evidence-sufficiency challenges by examining the record to determine whether a reasonable jury could have found the defendant guilty beyond a reasonable doubt based on the evidence supporting the verdict and all inferences drawn from that evidence considered in the light most favorable to the verdict. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016). The state bears the burden to prove every element of a charged offense beyond a reasonable doubt, *State v. Pakhnyuk*, 926 N.W.2d 914, 919 (Minn. 2019), and venue is an element of every criminal offense, *State v. Pierce*, 792 N.W.2d 83, 85 (Minn. App. 2010); *see also State v. Carignan*, 272 N.W.2d 748, 749 (Minn. 1978). Lozier’s venue argument fails.

Lozier mistakenly focuses heavily on whether the evidence proves that she—rather than Warledo—took or drove the car in Roseau County. The argument overlooks the fact that venue is appropriate not only where any element of an offense was committed but also where the property involved in the offense has been located. *See* Minn. Stat. § 627.01, subd. 1 (2020). A person is guilty of motor-vehicle theft when she “takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent.” Minn. Stat. § 609.52, subd. 2(a)(17) (2020). A person “takes” another’s car within the meaning of this statute when and where she adversely possesses it. *State v. Thonesavanh*, 904 N.W.2d 432, 441 (Minn. 2017). We reject Lozier’s contention that venue is appropriate only where her adverse possessing or driving the vehicle occurred because the contention frames the venue statute too narrowly.

A defendant has the right to be tried in the county or district where the crime was committed. Minn. Const. art. I, § 6. And the legislature has codified this constitutional right, essentially making venue an element of every criminal offense. Minn. Stat. § 627.01, subd. 1; *Pierce*, 792 N.W.2d at 85. The statute defines the “county where the offense was committed” as “any county where any element of the offense was committed *or* any county where the property involved in an offense is or has been located.” Minn. Stat. § 627.01, subd. 2 (2020) (emphasis added). We have applied this statute to hold that, when a person takes possession of property lawfully in one county but then misappropriates the same property in another county, venue is proper in either county. *State v. Franklin*, 692 N.W.2d 82, 84–85 (Minn. App. 2005), *rev. denied* (Minn. Apr. 19, 2005). Lozier’s argument fails under that holding.

Venue is proper in Roseau County because, viewing the evidence in the light most favorable to the verdict, Lozier was a party to Taylor’s agreement to lend the car to Lozier and Warledo, and they took possession of the car in Roseau County. That the duo misappropriated the car and continued to possess it adversely only in other places does not, under *Franklin*, preclude the jury’s implicit finding beyond a reasonable doubt that venue was proper in Roseau County. We reach this conclusion regardless of whether Lozier had ever shared in the driving role, but the evidence establishes that she in fact also drove the car.

Affirmed.