STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0457

State of Minnesota,
Respondent,

vs.

Juan Antonio Ruiz,
Appellant.

Filed March 4, 2024
Affirmed in part, reversed in part, and remanded
Larson, Judge

Lyon County District Court
File No. 42-CR-21-829

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

Abby Wikelius, Lyon County Attorney, Julianna F. Passe, Assistant County Attorney, Marshall, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Cochran, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Julio Antonio Ruiz challenges his convictions for one count of unlawful possession of ammunition, pursuant to Minn. Stat. § 624.713, subd. 1(2) (2020), and two counts of fleeing a peace officer in a motor vehicle, pursuant to Minn. Stat. § 609.487,

subd. 3 (2020). Ruiz argues: (1) respondent State of Minnesota presented insufficient evidence to support his conviction for unlawful possession of ammunition and (2) the district court abused its discretion when it denied his motion for a *Schwartz*[1] hearing. Ruiz also challenges the district court's decision to impose two sentences for his two fleeing-a-peace-officer convictions. For the reasons set forth below, we affirm Ruiz's conviction for unlawful possession of ammunition and conclude the district court did not abuse its discretion when it denied Ruiz's motion for a *Schwartz* hearing. But because the district court erred when it imposed two sentences for the fleeing-a-peace-officer convictions, we reverse in part and remand to the district court.

FACTS

On August 23, 2021, in Lyon County, officers from the Marshall Police Department attempted to execute multiple arrest warrants against Ruiz at a local apartment (the Marshall apartment). When the officers entered the Marshall apartment, Ruiz jumped out of a window and drove away in a tan Jeep. Two officers pursued Ruiz as he fled into the surrounding countryside. The pursuit lasted between four and seven minutes and occurred sometime between 12:08 p.m. and 12:22 p.m. The officers terminated their pursuit once they determined no one was nearby to render assistance. The Marshall Police Department

[1] A *Schwartz* hearing is a proceeding in which a district court determines whether a guilty verdict was the result of juror misconduct. *See Schwartz v. Minneapolis Suburban Bus Co.*, 104 N.W.2d 301, 303 (Minn. 1960). When a hearing is warranted, "the [district] court may summon the juror who alleges jury misconduct and permit, with proper safeguards, an examination to be conducted in the presence of counsel for all interested parties and the [district court] judge." *Zimmerman v. Witte Transp. Co.*, 259 N.W.2d 260, 263 (Minn. 1977).

then notified the neighboring Lincoln County Sheriff's Office that Ruiz was headed in their direction.

Upon receiving the dispatch from the Marshall Police Department, a Lincoln County sheriff went on an active search for Ruiz. The sheriff located Ruiz at approximately 1:13 p.m. and tried to pull him over, but Ruiz sped off. Ruiz eventually reentered Lyon County. He then entered the town of Minneota with multiple Lincoln County sheriff's deputies in pursuit. The Minneota Police Department's chief intervened and tried unsuccessfully to stop Ruiz. After Ruiz left Minneota, Lyon County sheriff's deputies punctured the Jeep's tires with spike strips, causing the Jeep to veer into a corn field where the Minneota police chief apprehended Ruiz. The Marshall Police Department obtained a warrant to search the Jeep. Inside, a detective found ammunition and a loaded firearm.

The state charged Ruiz with one count of unlawful possession of a firearm, pursuant to Minn. Stat. § 624.713, subd. 1(2), one count of unlawful possession of ammunition, pursuant to Minn. Stat. § 624.713, subd. 1(2),[2] and two counts of fleeing a peace officer in a motor vehicle, pursuant to Minn. Stat. § 609.487, subd. 3. The state alleged Ruiz committed the first fleeing-a-peace-officer offense when he fled from the Marshall Police Department and the second fleeing-a-peace-officer offense when he fled from the Lincoln County Sheriff's Department and the Minneota Police Department.

[2] Under Minn. Stat. § 624.713, subd. 1(2), a person cannot possess a firearm or ammunition after a conviction for "a crime of violence." In 2009, Ruiz was convicted of first-degree criminal sexual conduct under Minn. Stat. § 609.342 (2008), which is a crime of violence, *see* Minn. Stat. § 624.712, subd. 5 (2020).

At a jury trial, the detective who searched the Jeep testified that he found two rounds of "ammunition in [a] cupholder" between the driver's and front passenger's seats, and "a nine millimeter handgun in the back portion of the vehicle" loaded with five rounds of ammunition. According to the detective, the Jeep "was messy" with loose change in the cupholder where he found the ammunition. The detective also testified that he found a wallet containing Ruiz's driver's license near a brake lever approximately six inches away from the cupholder. In addition, the detective located two identification cards in the Jeep that did not belong to Ruiz.

The detective further testified that after he searched the Jeep, he arranged for the Minnesota Bureau of Criminal Apprehension (BCA) to test the firearm for Ruiz's DNA. The detective contacted Ruiz to obtain a DNA swab. According to the detective, during their interaction, Ruiz commented "that there was ammo all over the car" and "[h]e had moved [the ammunition] around when he cleaned [the Jeep]." The detective testified that he did not conduct a DNA test on the ammunition because Ruiz already admitted that he moved the ammunition in the Jeep. BCA testing found a partial major male profile on the firearm's grip matching Ruiz.

The state also called Ruiz's ex-girlfriend, who testified about Ruiz's ownership of the Jeep. She testified that Ruiz purchased the Jeep in June or July of 2021. She stated that when Ruiz purchased the Jeep "[i]t was fairly clean" and "there [were] like no belongings" inside.

Ruiz called the resident of the Marshall apartment to testify. She testified that in the days preceding August 23, 2021, she observed multiple people who either had access

to or drove the Jeep. She explained that, in the night or early morning hours before Ruiz's arrest, an individual dropped off the Jeep's keys at the Marshall apartment so that Ruiz "could use the vehicle." In addition, she described two occasions where she witnessed others driving the Jeep. In particular, she described that a few days before Ruiz's arrest, she and Ruiz rode in the Jeep with an unidentified male driving. More generally, she testified that "several people were part of this vehicle" and that Ruiz "wasn't the only one" who had access to or used it.

At the end of the trial, the jury delivered guilty verdicts for one count of unlawful possession of ammunition and two counts of fleeing a peace officer in a motor vehicle. The jury found Ruiz not guilty of unlawful possession of a firearm.

After trial, a juror contacted defense counsel regarding the verdicts. Defense counsel did not question the juror. Instead, defense counsel immediately notified the district court via letter, describing the juror's statement that "she was pressured and harassed by other jurors into her agreeing to one of the verdicts." Defense counsel also filed a motion requesting a *Schwartz* hearing. The district court denied the motion.

The district court then sentenced Ruiz to concurrent terms of 60 months in prison for unlawful possession of ammunition and 17 months in prison for each fleeing-a-peace-officer conviction. This appeal follows.

DECISION

In this direct appeal, Ruiz challenges his convictions and sentences. Ruiz argues: (1) the state presented insufficient evidence to support his conviction for unlawful possession of ammunition and (2) the district court abused its discretion when it denied his

motion for a *Schwartz* hearing. Ruiz also argues the district court erred when it imposed two sentences for his fleeing-a-peace-officer convictions. We address each argument in turn.

I.

Ruiz first challenges whether the state presented sufficient evidence to show that he possessed the ammunition in the cupholder.[3] "When evaluating the sufficiency of the evidence, appellate courts carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). "The evidence must be viewed 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." *Id.* "The verdict will not be overturned if the fact-finder, upon application of the presumption of innocence and the State's burden of proving an offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense." *Id.*

Here, the state relied on circumstantial evidence to prove Ruiz possessed the ammunition. *See State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (noting that

[3] At trial, the detective testified that he found a handgun in the back of the Jeep that contained ammunition, but the jury found the state failed to prove Ruiz possessed the firearm. The state concedes that Ruiz's conviction cannot be based on the ammunition in the handgun because the jury acquitted Ruiz of the unlawful-firearm-possession charge. We agree. Ruiz cannot have possessed the ammunition in the handgun if he did not possess the handgun itself. Therefore, we elect not to consider the ammunition in the handgun as evidence that Ruiz possessed ammunition in the Jeep.

circumstantial evidence is "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist" (quotation omitted)). Accordingly, we apply the heightened two-step circumstantial-evidence test. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012). First, we identify the circumstances proved. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). In this step, we defer to "the jury's acceptance of the proof of these circumstances" and "assume that the jury believed the State's witnesses and disbelieved the defense witnesses." *Id.* at 598-99 (quotations omitted). Second, we determine if the circumstances, when viewed "as a whole," are "consistent with guilt and inconsistent with any rational hypothesis except that of guilt, not simply whether the inferences that point to guilt are reasonable." *Id.* at 599 (quotation omitted). During this step, we do not defer to the factfinder's choice between reasonable inferences. *State v. Andersen*, 784 N.W.2d 320, 329-30 (Minn. 2010). The circumstantial evidence presented by the state "must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt." *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted).

Under Minn. Stat. § 624.713, subd. 1(2), "a person who has been convicted of . . . a crime of violence" is not "entitled to possess ammunition." To obtain a conviction, the state must prove the defendant knowingly possessed the ammunition. *See Harris*, 895 N.W.2d at 601. Here, the state argues that Ruiz had constructive possession of the ammunition in the cupholder. *See id.* at 601 ("Possession may be proved through evidence of . . . constructive possession."); *State v. German*, 929 N.W.2d 466, 472 (Minn. App. 2019) (the state can prove constructive possession using circumstantial evidence). The

state may prove constructive possession using two methods. *Harris*, 895 N.W.2d at 601. First, the state may show law enforcement "found the item in a place under defendant's exclusive control to which other people normally did not have access." *Id.* Second, if law enforcement "found the item in a place to which others had access, the State must show that 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.*

Ruiz argues we must evaluate whether he had constructive possession using the second method because the evidence at trial showed he did not have "exclusive control" over the Jeep. The state disagrees, arguing the only evidence that others used the Jeep came from a defense witness, and that we must assume the jury disregarded defense-witness testimony when we formulate the circumstances proved. However, when evaluating the sufficiency of the evidence, we are permitted to consider testimony that does not conflict with the jury's verdict. *State v. Colgrove*, 996 N.W.2d 145, 151-52 (Minn. 2023). Here, the legal framework for constructive possession accounts for scenarios where contraband is "in a place to which others had access." *See State v. Salyers*, 858 N.W.2d 156, 159 (Minn. 2015) (quotation omitted). Therefore, testimony that others used the car "is not inconsistent" with the jury's verdict that Ruiz possessed the ammunition. *See Colgrove*, 996 N.W.2d at 152. Moreover, the detective—a state witness—testified that he found identification cards from two other individuals in the Jeep. Thus, even without defense-witness testimony, evidence was presented at trial that others had access to the Jeep. Therefore, we evaluate whether there is a strong probability inferable from the

evidence presented at trial that Ruiz "was consciously or knowingly exercising dominion and control over" the ammunition in the cupholder. *See Harris*, 895 N.W.2d at 601.

Ruiz next asserts the state presented insufficient evidence that he had constructive possession over the ammunition in the cupholder. Courts consider several factors when determining whether there is sufficient evidence to establish constructive possession. "Proximity is an important consideration in assessing constructive possession." *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000), *rev. denied* (Minn. Jan. 16, 2001). "[E]ase of access is . . . [another] factor relevant to establishing constructive possession, [though] it is not the sole factor or necessarily even the most important factor." *Salyers*, 858 N.W.2d at 159; *Harris*, 895 N.W.2d 601-02. Further, ownership and control over a vehicle where officers find contraband can be evidence of constructive possession. *State v. Slifka*, 256 N.W.2d 90, 91 (Minn. 1977) ("The officers arguably had reasonable cause to believe that the driver constructively possessed the marijuana because the car was his and he was in control of the car.").

Applying this standard and resolving all fact questions in favor of the verdict, *see Silvernail*, 831 N.W.2d at 598-99, we identify the circumstances proved: (1) Ruiz purchased the Jeep in summer 2021; (2) several people used the Jeep during Ruiz's ownership; (3) the resident of the Marshall apartment rode in the Jeep with Ruiz while an unidentified person drove it; (4) someone dropped off the Jeep's keys at the Marshall apartment several hours before Ruiz's arrest; (5) when officers attempted to arrest Ruiz at the Marshall apartment, Ruiz fled in the Jeep; (6) Ruiz was alone in the Jeep when he fled; (7) when officers apprehended Ruiz, he was still alone in the Jeep; (8) after apprehending

Ruiz, the detective searched the Jeep, which was cluttered with miscellaneous items; (9) the detective found two rounds of ammunition, along with loose change, in the Jeep's cupholder; (10) the detective located Ruiz's wallet with his driver's license near the Jeep's handbrake, six inches from the ammunition; (11) the detective located two identification cards in the Jeep that did not belong to Ruiz; and (12) during the subsequent investigation, Ruiz admitted that ammunition was spread all over the Jeep, and he had moved the ammunition.

Next, we review whether "as a whole" these proved circumstances are "consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Silvernail*, 831 N.W.2d at 599 (quotation omitted). Ruiz argues the circumstances proved do not support a reasonable inference of guilt because the state relies solely on his proximity to the ammunition and never tested the ammunition for his DNA. We are not persuaded.

Although the evidence presented at trial showed that others used the Jeep, Ruiz owned the Jeep, and was alone in the Jeep both when he fled from the officers and when he was apprehended. Ruiz sat next to the ammunition in the cupholder for over an hour while he evaded arrest and laid his wallet with his driver's license only six inches from the cupholder. Further, Ruiz later admitted to the detective that he knew the Jeep contained ammunition and that he moved the ammunition when he cleaned the Jeep. The record, in its entirety, shows a strong probability that Ruiz had both the "ability and the intent to exercise dominion and control over" the ammunition in the cupholder. *See Harris*, 895 N.W.2d at 602.

Ruiz also argues that, even if the evidence is consistent with guilt, there is a reasonable alternative hypothesis that someone else possessed the ammunition. Again, we are not persuaded. First, Ruiz's argument fails to account for the fact that "[a] defendant may possess an item jointly with another person." *See Harris*, 895 N.W.2d at 601. Thus, the potential that someone else may have possessed the ammunition does not preclude Ruiz from having exercised dominion and control over the ammunition at the time of his arrest. Further, inferring that someone else possessed the ammunition simply because they drove the Jeep would constitute speculation and conjecture, not a reasonable alternative hypothesis derived from the record. *See Andersen*, 784 N.W.2d at 330 (noting that we will not overturn a conviction based on "mere conjecture"); *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008) (avoiding conjecture requires pointing "to evidence in the record that is consistent with a rational theory other than guilt").

The circumstances proved support a reasonable inference of guilt and do not support a reasonable alternative hypothesis that is inconsistent with guilt. Therefore, we affirm Ruiz's unlawful possession of ammunition conviction.

II.

Ruiz next argues that he was entitled to a *Schwartz* hearing relying on the juror's post-trial allegations that other jurors harassed her into consenting to "one of the verdicts." Ruiz argues that defense counsel's assertion that the juror was "harassed" indicated that the juror experienced conduct beyond mere pressure and, therefore, the district court should have granted Ruiz's request for a *Schwartz* hearing. We review the district court's decision for an abuse of discretion. *State v. Church*, 577 N.W.2d 715, 721 (Minn. 1998). "A district

court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted).

After trial, a defendant may move to impeach a jury verdict and the district court may respond with a hearing to examine jurors "under oath [with] their testimony recorded." Minn. R. Crim. P. 26.03, subd. 20(6). This hearing, known as a *Schwartz* hearing, investigates "whether a jury verdict is the product of misconduct." *State v. Greer*, 635 N.W.2d 82, 93 (Minn. 2001). A defendant is entitled to a *Schwartz* hearing when they present a prima facie case that, "standing alone and unchallenged, would warrant the conclusion of jury misconduct." *State v. Martin*, 614 N.W.2d 214, 225-26 (Minn. 2000) (quotation omitted).

A district court "should be liberal in granting [a *Schwartz*] hearing." *Zimmerman v. Witte Transp. Co.*, 259 N.W.2d 260, 263 (Minn. 1977) (citation omitted). Nevertheless, a juror's testimony must be admissible under Minn. R. Evid. 606(b). *See* Minn. R. Crim. P. 26.03, subd. 20(6). Therefore, to require a hearing, some alignment must exist between the juror's allegations and the type of testimony rule 606(b) permits a defendant to elicit. *See Martin*, 614 N.W.2d at 226. Under rule 606(b), "a juror may testify" about conduct including "whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror, or as to any threats of violence or violent acts brought to bear on jurors." Accordingly, when a juror alleges that other jurors exerted pressure, but does not allege "threats of violence or violent acts," a district court does not abuse its discretion when it

denies a motion for a *Schwartz* hearing. *See State v. Jackson*, 615 N.W.2d 391, 396 (Minn. App. 2000), *rev. denied* (Minn. Oct. 17, 2000); Minn. R. Evid. 606(b) 1989 comm. cmt. ("The [district] court must distinguish between testimony about 'psychological' intimidation, coercion, and persuasion, which would be inadmissible, as opposed to express acts or threats of violence.").[4]

Here, Ruiz failed to present a prima facie case that "standing alone and unchallenged" shows juror misconduct. *See Martin*, 614 N.W.2d at 225-26. Defense counsel's submission to the district court only asserts that the juror experienced psychological intimidation: she "was pressured and harassed by other jurors." Defense counsel did not indicate that the juror alleged violence, a threat of violence, or other circumstances she could have testified about under rule 606(b). *See Jackson*, 615 N.W.2d at 396. Therefore, we conclude the district court did not abuse its discretion when it denied Ruiz a *Schwartz* hearing.

III.

Lastly, Ruiz argues we must reverse and remand to the district court to vacate one of his fleeing-a-peace-officer sentences because the two convictions arose from the same behavioral incident. Whether multiple offenses occurred during the same behavioral incident presents "a mixed question of law and fact." *State v. Bakken*, 883 N.W.2d 264,

[4] Our nonprecedential opinions have followed suit. *See State v. Rucker*, No. A15-2044, 2017 WL 746422, at *2 (Minn. App. Feb. 27, 2017), *rev. denied* (Minn. May 16, 2017); *State v. Brantley*, No. A12-1639, 2013 WL 6050218, at *5 (Minn. App. Nov. 18, 2013), *rev. denied* (Minn. Jan. 29, 2014); *State v. Jahnke*, A06-1575, 2008 WL 1795278, at *1-2 (Minn. App. Apr. 22, 2008).

270 (Minn. 2016). We review a "district court's findings of fact for clear error and its application of the law to those facts de novo." *Id.*

Under Minn. Stat. § 609.035, subd. 1 (2020), "if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses." Courts have interpreted subdivision 1 "to bar multiple sentences for crimes that arise from [the same] behavioral incident." *State v. Bauer*, 792 N.W.2d 825, 827 (Minn. 2011). The purpose of the statute is to "protect against exaggerating the criminality of a person's conduct and to make both punishment and prosecution commensurate with culpability." *State v. Ferguson*, 808 N.W.2d 586, 589 (Minn. 2012) (quotation omitted). The state bears the burden to show by a preponderance of the evidence that multiple "offenses did not occur as part of the same behavioral incident." *State v. Williams*, 608 N.W.2d 837, 841-42 (Minn. 2000).

In this case, Ruiz was convicted of two counts of fleeing a peace officer, pursuant to Minn. Stat. § 609.487, subd. 3. That provision states that "[w]hoever . . . flees or attempts to flee a peace officer," and "knows or should reasonably know the same to be a peace officer" commits a felony. Minn. Stat. § 609.487, subd. 3. The statute defines fleeing as an "intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle." Minn. Stat. § 609.487, subd. 1 (2020).

For two intentional crimes like these, we consider "factors of time and place . . . [and w]hether the segment of conduct involved was motivated by an effort to obtain a single criminal objective." *Bauer*, 792 N.W.2d at 828 (alteration in original) (quotation omitted). "The application of this test depends heavily on the facts and

circumstances of the particular case." *Id.* "[B]road statements of criminal purpose do not unify separate acts." *State v. Barthman*, 938 N.W.2d 257, 267 (Minn. 2020) (quotation omitted). Rather, we must evaluate "whether all of the acts performed were necessary to or incidental to the commission of a single crime and motivated by an intent to commit that crime." *Id.* (quotation omitted).

Here, the state failed to prove by a preponderance of the evidence that the two fleeing-a-peace-officer convictions arose from separate behavioral incidents. With respect to time and place, the evidence presented at trial shows Ruiz fled from the Marshall apartment and continued to evade law enforcement until officers punctured the Jeep's tires with spike strips. Given the rural area where Ruiz committed the crimes, one would expect that he would travel across a relatively large geographic area to evade law enforcement, including travelling between counties. That different officers encountered and pursued Ruiz at different points during evasion, and some officers only pursued Ruiz after receiving a dispatch that Ruiz was actively fleeing, shows the crimes occurred in a sufficiently similar time and place to be considered part of the same behavioral incident.[5]

The record also shows that Ruiz harbored the same criminal objective. After officers arrived at the Marshall apartment, Ruiz drove away to evade arrest. Although officers abandoned their initial pursuit, Ruiz drove around the countryside unabated. He

[5] We are also unconvinced by the state's argument that the two convictions are not part of the same behavioral incident because the Marshall Police Department called off their pursuit. When evaluating whether a crime is part of the same behavioral incident, we evaluate the *defendant's* conduct, not the state's conduct. *See Barthman*, 938 N.W.2d at 265-66 (outlining the framework for whether multiple offenses were part of the same behavioral incident).

continued to flee law enforcement when the Lincoln County sheriff pursued him an hour later and when the Minneota police chief tried to stop him. He did not cease fleeing until Lyon County sheriff's deputies stopped the Jeep with spike strips. Throughout this entire time, Ruiz's criminal objective remained the same—avoiding law enforcement to prevent arrest for his outstanding arrest warrants. Accordingly, the state charged Ruiz with two counts under the exact same statute and with the same mens rea element: "intent to attempt to elude a peace officer." *See* Minn. Stat. § 609.487, subd. 1.

The state did not show, by a preponderance of the evidence, that the two convictions stemmed from isolated conduct meriting two sentences. We conclude the district court erred when it determined the two fleeing-a-peace-officer convictions arose from separate behavioral incidents. Therefore, we reverse in part and remand to the district court to vacate one of Ruiz's fleeing-a-peace-officer sentences.

Affirmed in part, reversed in part, and remanded.