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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-2256**

State of Minnesota,
Respondent,

vs.

Chaun Lamar Johnson,
Appellant.

**Filed October 1, 2012
Affirmed
Stauber, Judge**

Hennepin County District Court
File No. 27CR1058259

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Susan J. Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Worke, Judge; and Stauber, Judge.

UNPUBLISHED OPINION

STAUBER, Judge

On appeal from his convictions of felon in possession of a firearm, possession of a short-barreled shotgun, and fleeing a peace officer in a motor vehicle, appellant argues

that his convictions must be reversed because the evidence is insufficient to support the jury's findings of guilt. We affirm.

FACTS

At about 8:00 p.m. on October 26, 2010, Minneapolis Police Officers Daniel Anderson and Shawn Williams observed a vehicle driving at a high rate of speed and failing to stop at a red light. The officers stopped the vehicle, and Officer Williams identified the occupant as appellant Chaun Lamar Johnson. When the officers returned to their squad car with appellant's identification card to check for outstanding warrants, appellant fled the scene in the vehicle. The officers initially pursued the vehicle but soon terminated the pursuit due to the high rate of speed at which the vehicle was traveling.

After losing sight of the vehicle, the officers were notified that a vehicle matching the description was observed in the same area as the address listed on appellant's identification card. The officers then proceeded to this address and observed that the vehicle had been driven through a closed overhead garage door. Officer Anderson looked under the garage door "that was . . . a foot or two off the ground, but hanging, basically, just by the chain almost," and saw two feet getting out of the driver's side door. The driver fled the scene on foot. A subsequent search of the vehicle yielded a backpack containing a sawed-off shotgun.

Appellant was charged with prohibited person in possession of a firearm and fleeing a peace officer in a motor vehicle. The complaint was later amended to include the charge of possession of a short-barreled shotgun.

At trial, Officer Williams testified that he was “100 percent” certain that appellant was the driver of the vehicle that was stopped and then fled the scene and that shortly thereafter crashed into the garage. Appellant challenged Officer Williams’s credibility, claiming that the officer’s failure to generate a report on the incident hindered his ability to recall details of the stop, including the suspect’s appearance. Appellant called S. J. as a witness. S.J. testified that appellant had been at her home from about 4:30 or 5:00 p.m. on October 26, 2010, until she woke up the next morning. On cross-examination, S.J. admitted a previous conviction of providing false information to the court.

A jury found appellant guilty of the charged offenses. The district court sentenced appellant to 60 months in prison for prohibited person in possession of a firearm. Appellant also received a concurrent sentence of 22 months for fleeing a peace officer in a motor vehicle. For purposes of sentencing, the possession of a short-barreled shotgun offense merged into the prohibited-person offense. This appeal followed.

D E C I S I O N

Appellant challenges his firearm-related convictions, claiming that the evidence is insufficient to prove that he constructively possessed the firearm. In considering a claim of insufficient evidence, an appellate court’s review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court must assume “the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). The reviewing court will not disturb the

verdict if the jury, 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. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

“[A] conviction based entirely on circumstantial evidence merits stricter scrutiny than convictions based in part on direct evidence.” *State v. Jones*, 516 N.W.2d 545, 549 (Minn. 1994). “While it warrants stricter scrutiny, circumstantial evidence is entitled to the same weight as direct evidence.” *State v. Bauer*, 598 N.W.2d 352, 370 (Minn. 1999). “Circumstantial evidence must form a complete chain that, 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. Hanson*, 800 N.W.2d 618, 622 (Minn. 2011).

Minn. Stat. § 624.713 (2010) prohibits certain persons from possessing firearms. Under the statute, possession can be actual or constructive. *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000), *review denied* (Minn. Jan. 16, 2001). Actual possession involves “direct physical control.” *Jacobson v. Aetna Cas. & Sur. Co.*, 233 Minn. 383, 388, 46 N.W.2d 868, 871 (1951). Constructive possession of an item can be established in two ways: either (1) the state may show that the item was in a place under the defendant’s “exclusive control to which other people did not normally have access” or (2) if the item was in a place to which others had access, the state can show that there is a strong probability that the defendant was “at the time consciously exercising dominion and control over it.” *State v. Florine*, 303 Minn. 103, 105, 226 N.W.2d 609, 611 (1975). The purpose of constructive possession is to include those cases “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 [stop].” *Id.* at 104-05, 226 N.W.2d at 610.

Appellant argues that, because he did not have actual possession of the firearm, the state must prove constructive possession. Appellant contends that the state failed to do so because no jury could reasonably have concluded that the shotgun was found in a “place under [appellant’s] exclusive control to which other people did not normally have access.” Thus, appellant argues that based upon the evidence presented by the state, no rational jury could have found appellant guilty beyond a reasonable doubt of prohibited person in possession of a firearm and possession of a short-barreled shotgun.

We disagree. The state presented evidence establishing a complete chain leading to the conclusion that appellant was guilty of possession of the firearm. Officer Williams testified that, on the night of the incident, he identified appellant as the driver of the vehicle from the identification card he was provided. The record also reflects that after the vehicle fled the scene, the officers pursued the vehicle for several blocks before terminating the pursuit. Immediately thereafter, the officers were notified that another officer had spotted a vehicle matching the description of the vehicle driven by appellant. Both officers testified that after responding to the report, they observed that the same vehicle crashed through a garage door at the address listed on appellant’s identification card. Officer Anderson testified that he looked under the garage door and observed two feet getting out of the driver’s door. The officers entered the garage, and Officer Anderson testified that he could tell that the person had escaped through a service door.

From this point forward, law enforcement remained with the vehicle until it was impounded. When the vehicle was impounded, the shotgun was found in a backpack on the back seat. Although appellant was neither arrested nor observed at the garage, the vehicle was located at the address listed on appellant's identification card, and he had been identified as the driver of the vehicle only minutes before. From this evidence, it could reasonably be inferred beyond a reasonable doubt that appellant was exercising dominion and control over the shotgun when the vehicle he was driving was stopped by the police, and any conflicting inferences were not reasonable.

In his pro se supplemental brief, appellant challenges all of his convictions on the basis that the evidence was insufficient to show that he was the driver of the vehicle stopped by law enforcement. But identification is a question of fact for the jury to determine. *State v. Miles*, 585 N.W.2d 368, 373 (Minn. 1998). "Identification testimony need not be absolutely certain; it is sufficient if the witness expresses a belief that she or he saw the defendant commit the crime." *Id.* Moreover, the jury determines the weight and credibility of witness testimony and of the defendant's story, and a conviction may rest on the testimony of a single credible witnesses. *Id.*

Here, Officer Williams testified that appellant was the driver of the vehicle that was stopped on October 26, 2010. If believed, Officer Williams's testimony is sufficient to establish that appellant was the driver of the vehicle. Although S.J. testified that appellant was at her house on October 26, we must assume that the jury believed the testimony presented by the state and disbelieved any testimony to the contrary. *See Moore*, 438 N.W.2d at 108 (defining standard of review). Because the issue of

identification rests on witness credibility, an issue to which this court gives deference to the finder-of-fact, we conclude that the evidence is sufficient to support the jury's verdict.

Affirmed.