STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1002

State of Minnesota,
Respondent,

vs.

Kristiana Elena Beavers,
Appellant.

Filed May 3, 2021
Affirmed
Worke, Judge

McLeod County District Court
File No. 43-CR-19-1131

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

Kenneth G. Janssen, Glencoe City Attorney, Gavin, Janssen & Stabenow, Ltd., Glencoe, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant argues that the state provided insufficient evidence to prove that she intentionally took her ex-boyfriend's property with the intent to permanently deprive him of possession. We affirm.

FACTS

Appellant Kristiana Elena Beavers was charged with one count of misdemeanor theft pursuant to Minn. Stat. § 609.52, subd. 2(a)(1) (2018), and one count of misdemeanor tampering with a vehicle and entering without the owner's permission pursuant to Minn. Stat. § 609.546(2) (2018).[1]

At trial, R.H. testified that he shares a child with Beavers. They had a "fairly on-and-off-again" relationship that began in the fall of 2015. In May 2019, the couple was "in a transitional period to where [R.H.] called things off entirely" after they stopped living together earlier that year. R.H. and Beavers jointly owned two car seats, but both preferred one of them that was nicer than the other. On May 21, 2019, the preferred car seat was in R.H.'s pickup truck that he drove to his brother's house in Glencoe. Beavers knew where R.H.'s brother lived because R.H. previously shared the address with her.

A little before 11:00 p.m., R.H. went out to his truck "to pick up [his] stuff to go to bed" and found that his "doors were unlocked, the car seat was gone, [and his] bag of clothes . . . were all gone." His belongings had been in a plastic Vans shopping bag that belonged to Beavers. It was a "typical shopping bag" that cannot seal. R.H.'s apartment key and two phone chargers were also in the bag. He testified that the back sliding window over the bed of his truck "looked like somebody had scratched it open."

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[1] Beavers was also charged with second-degree burglary in a separate matter for events relating to and occurring on the same night as the events of this appeal. The parties agreed to try the two cases at the same time while keeping them separate, and Beavers challenged that conviction in a separate appeal. *State v. Beavers*, No. A20-1003, 2021 WL 1522474 (Minn. App. Apr. 19, 2021).

R.H. testified that he did not tell Beavers where he was that evening, but she had called him and accused him of being on a date and getting high. She later messaged him about court documents to modify custody and parenting time that were sitting on the kitchen table of his apartment. She did not have a key for, or permission to be in, his apartment, and he did not discuss pursuing custody or parenting time through legal proceedings with Beavers "anywhere within six months to nine months of that time frame."

R.H. called law enforcement and told the responding officers that he suspected that Beavers entered his truck and took his things. R.H. then went to his apartment. Inside, he noticed "missing items, both items that . . . Beavers had bought and items that . . . Beavers had not purchased, and [he] found [his] keys on [his] table and the petition for parenting time gone." He knew that the keys on his table were the same as the keys from the Vans bag because of the tape measure on the key ring. R.H. did not recover any of his other possessions from the Vans bag.

The following morning, Beavers called R.H. R.H. recorded the conversation, and the recording was played for the district court. Beavers admitted she went into R.H.'s unlocked truck to grab her things.

One of the officers who responded to R.H.'s call testified that he noticed "some scratch marks on . . . the sliding door on the back" of R.H.'s truck.

Beavers testified that R.H. told her that he was at his brother's house and that she could come and take the car seat. She rang the brother's doorbell, but there was no answer. She then walked past R.H.'s truck and noticed that the keys were in the ignition. When she grabbed the car seat, she "realized that there was a—a Vans bag that he had taken from

[her] apartment sitting on top of the car seat. And due to it raining and being dark, [she] didn't look into the bag; [she] just grabbed the car seat and [she] ran to [her] car." When she cleaned out her car later that night, she "realized that there was, like, a sweatshirt and some hygiene products in the bag, and [she] went to go return them to . . . R.H.'s apartment." She claimed that the bag did not include phone chargers or the keys to R.H.'s apartment. She entered R.H.'s apartment using the key that he gave her a couple months prior and left the contents of the bag on his living room couch. She then left his key on the table.

The district court found Beavers guilty of tampering with a motor vehicle and misdemeanor theft. The district court found that R.H. was more credible than Beavers and that Beavers

> took property that belonged to R.H. from his vehicle including his clothes and phone chargers. [Beavers] purposefully took these items and knew the property belonged to R.H. after she opened the Vans bag. [Beavers] knew she did not have permission or a right to take the items and she intended to permanently deprive R.H. of these items as [Beavers] did not return the clothing or phone chargers to him.

The district court sentenced Beavers to a stay of imposition with one year of probation for each conviction, to be served concurrently, as well as 30 days of community service for the tampering-with-motor-vehicle conviction. This appeal followed.

DECISION

Beavers argues that the state provided insufficient evidence to support the theft conviction because there is no evidence that she took R.H.'s property with the intent to

permanently deprive him of it.[2] Beavers makes four arguments on appeal: (1) she and R.H. jointly owned the car seat, (2) the district court did not find that Beavers took R.H.'s melatonin, (3) the evidence did not establish that Beavers permanently deprived R.H. of his apartment keys, and (4) the state provided insufficient evidence that Beavers intended to permanently deprive R.H. of his clothes and phone chargers. The district court found Beavers guilty based on the theft of R.H.'s clothes and phone chargers; therefore, the first three arguments are not relevant. The dispositive issue in this appeal is whether the state provided sufficient evidence to prove that Beavers intended to permanently deprive R.H. of his clothes and phone chargers.

When reviewing a challenge to the sufficiency of the evidence, we review the record "to determine whether the evidence, direct and circumstantial, viewed most favorably to support a finding of guilt is sufficient to permit the [fact-finder] to reach that conclusion." *Francis v. State*, 729 N.W.2d 584, 589 (Minn. 2007) (quotation omitted). Appellate courts will not overturn a verdict if the district court, "upon application of the presumption of innocence and the [s]tate's burden of proving an offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016). "We do not retry the facts; we assume the [fact-finder] believed the state's witnesses and disbelieved the defendant's witnesses." *State v. Thao*, 649 N.W.2d 414, 420 (Minn. 2002).

[2] Beavers does not challenge her conviction for tampering with a motor vehicle.

The state generally proves intent with circumstantial evidence. *See State v. Bahtuoh*, 840 N.W.2d 804, 809 (Minn. 2013). We review the sufficiency of circumstantial evidence with a two-step analysis. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). "The first step is to identify the circumstances proved." *Id.* "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.* (quotations omitted).

The district court convicted Beavers of misdemeanor theft. A person who "intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property" is guilty of theft. Minn. Stat. § 609.52, subd. 2(a)(1).

The circumstances proved are that Beavers entered R.H.'s truck without permission and took, among other things, a Vans shopping bag. Inside the bag, among other items, were R.H.'s clothes and two phone chargers. Beavers recognized that this was not her property when she looked inside the bag. Beavers never returned the clothes or chargers. These circumstances are consistent with a finding that Beavers intended to permanently retain R.H.'s property without his consent, and they are inconsistent with any rational hypothesis except guilt.

Beavers argues that the evidence is insufficient to establish the intent-to-permanently-deprive element because it is unclear whether R.H. asked for the items back, and because he was never asked about why Beavers would have taken and kept his work clothes. But whether R.H. asked for the items back is not probative to whether Beavers

intended to deprive him of those items, and a lack of evidence regarding Beaver's motive does not establish a rational hypothesis of innocence. Beavers also argues that there is a reasonable inference inconsistent with guilt, but only argues that that inference is that she "did not intend to deprive R.H. of this property." But that inference is not reasonable in light of the circumstances proved.

Affirmed.