STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0834

State of Minnesota,
Respondent,

vs.

Ras-Solomon Marquis Braxton,
Appellant.

Filed April 14, 2025
Affirmed
Bratvold, Judge

Hennepin County District Court
File No. 27-VB-23-219274

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

Kristyn Anderson, Minneapolis City Attorney, Amy J. Tripp-Steiner, Assistant City Attorney, Minneapolis, Minnesota (for respondent)

Ras-Solomon Marquis Braxton, Minneapolis, Minnesota (pro se appellant)

Considered and decided by Ross, Presiding Judge; Smith, Tracy M., Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant challenges the final disposition of a petty-misdemeanor violation for driving while using a cell phone to access prohibited content, arguing that the evidence is insufficient to sustain his conviction. Because the direct and circumstantial evidence in the

record proves beyond a reasonable doubt that appellant used a cell phone to access prohibited content while driving, we affirm.

FACTS

At about 11:27 a.m. on September 27, 2023, a trooper for Minnesota State Patrol was driving a marked squad car eastbound on Interstate 94 in Minneapolis. The trooper's squad car was travelling at about 75 miles per hour in the far-left lane of four lanes. Near exit 228, the trooper observed a gray pickup truck that was also driving eastbound. The pickup was in the far-right lane, and there were two lanes between the squad car and the pickup.

According to the trooper, as he passed the pickup, he "looked out the passenger side window" and saw the driver "holding a cell phone in front of the steering wheel, looking directly at the screen" while driving. The driver of the pickup "looked over at [the trooper] out the driver's side window and then immediately dropped the phone down." The trooper had a "clear line of sight through the driver's side window where the phone was." The trooper conducted a traffic stop, identified the pickup driver as appellant Ras-Solomon Marquis Braxton, and issued a citation for using a wireless communications device to access prohibited content while driving, in violation of Minn. Stat. § 169.475, subd. 2(a)(2)(iii) (Supp. 2023).

During Braxton's bench trial, the trooper testified as summarized above and the district court received the squad car's dash-camera video recording (squad video) into

evidence.[1] The squad video was played in open court and shows the trooper driving up to and then parallel to Braxton's pickup. At this point, the squad video recorded the trooper's statement: "Driver, clear line of sight, holding cell phone in front of the steering wheel and looking at the screen while driving."

On cross-examination, the trooper agreed that the squad video did not show "inside the truck" or Braxton as the squad car passed the pickup. On redirect examination, the trooper testified that Braxton "was already lowering his hand down from the steering wheel" as the trooper tried to record what Braxton was doing. The trooper agreed "absolutely" that his eyes are "more able to see things than [his] squad video." The trooper added, "My eyes is my primary judgment."

During closing arguments, the prosecuting attorney argued that the trooper credibly testified that he saw Braxton using a cell phone while driving. Braxton's attorney argued that the state did not prove beyond a reasonable doubt that the trooper saw Braxton holding a cell phone. Braxton's attorney argued, first, that the squad video does not show Braxton

[1] In its brief filed with this court, respondent State of Minnesota argues that "the record is limited and does not include the transcript." Relatedly, the state requested an "opportunity for supplemental briefing" if this court considers the transcript to be part of the record on appeal. While the state acknowledges that "a transcript of the court trial was filed in the district court file," it adds that "[t]his transcript does not appear to have been filed with the clerk of appellate courts."

"The documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases." Minn. R. Civ. App. P. 110.01. Because the trial transcript was filed in district court and transmitted to this court, we conclude that it is a part of the record on appeal. As for the state's request to submit a supplemental brief, the state's brief addressed the arguments in appellant's brief—neither of which refers to the trial transcript. We conclude that supplemental briefing is not necessary.

or "what he's doing" and, second, that the state's evidence is "only" the trooper's statements. Braxton's attorney urged that "[i]t could have been any number of things: A wallet, a lighter, a carton of cigarettes even."

After the parties' arguments, the district court stated its factual findings, first explaining why it found the trooper's testimony credible:

> The trooper that was here, his words right now at the end pretty much is why I'm accepting his testimony in that he stated his eyes are faster than the camera that we can see. The camera is support of what he testified. And his testimony was credible to the Court.

The district court also found that Braxton was operating the pickup on a highway and that the trooper saw Braxton "holding the wireless communication device, cell phone, and accessing—or looking at something, looking at the screen." Finally, the district court found Braxton guilty of violating Minn. Stat. § 169.475, subd. 2(a)(2)(iii). The district court imposed a $50 fine and $78 surcharge for the offense.

Braxton appeals.

DECISION

Minnesota's "hands-free" law—Minn. Stat. § 169.475, subd. 2 (Supp. 2023)—generally prohibits holding or using a wireless communications device while driving. The state charged Braxton under subdivision 2(a)(2)(iii), which prohibits a driver from (1) "using a wireless communications device," such as a cell phone, (2) to "access the following types of content stored on the device: video content, audio content, images,

games, or software applications." Minn. Stat. § 169.475, subd. 2(a)(2)(iii).[2] A person who violates this law is guilty of a petty misdemeanor, which is "an offense punishable by a fine of not more than $300" and is not considered a crime. *Id.*, subd. 2(b) (providing penalties); Minn. R. Crim. P. 23.01 (defining "petty misdemeanor"), .06.

In his brief, Braxton contends that "with lack of evidence the courts found me guilty." We understand Braxton, who is self-represented on appeal, to argue that the record does not include sufficient evidence to prove beyond a reasonable doubt that he was using a cell phone to access prohibited content while driving.

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). The relevant standard of review for a sufficiency challenge "depends on whether the State relied on direct or circumstantial evidence at trial." *State v. Segura*, 2 N.W.3d 142, 155 (Minn. 2024). Direct evidence is evidence that is "based on personal knowledge or observation and that, if true, proves a fact without inference or presumption." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Circumstantial evidence, on the other hand, is "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist." *Id.* (quotation omitted). The record in this appeal includes both types of evidence. We discuss the evidence for each element separately.

[2] There are several exceptions to the "hands-free" law under Minn. Stat. § 169.475, subd. 3 (Supp. 2023). Braxton does not contend that any exception applied.

A. The direct evidence is sufficient to sustain the district court's finding that Braxton used a cell phone while driving.

When reviewing the sufficiency of direct evidence, appellate courts "painstakingly review the record to determine whether that evidence, viewed in the light most favorable to the verdict, was sufficient to permit the [fact-finder] to reach the verdict that they did." *State v. Hassan*, 977 N.W.2d 633, 639-40 (Minn. 2022). The fact-finder "is in a unique position to determine the credibility of the witnesses and weigh the evidence before it" and may "accept part and reject part of a witness's testimony." *Harris*, 895 N.W.2d at 600 (quotation omitted). Appellate courts are "not permitted 'to re-weigh the evidence'" when considering the sufficiency of the evidence supporting a verdict. *State v. Metcalfe*, 13 N.W.3d 704, 711 (Minn. App. 2024) (quoting *State v. Reek*, 942 N.W.2d 148, 166 (Minn. 2020)). Appellate courts defer to a district court's credibility determination. *State v. King*, 990 N.W.2d 406, 420-21 (Minn. 2023).

Braxton argues that the state did not prove he was using a wireless communications device for two reasons: (1) the squad video did not show a cell phone and (2) the trooper did not testify credibly about seeing a cell phone in Braxton's hands. Braxton maintains that the trooper was "more than 20 feet away" and "driving at 70 [miles per hour]" and that Braxton's "windows are tinted jet black." The state argues that direct evidence proves Braxton was "holding a cell phone."

The record includes direct evidence that Braxton was using a cell phone while driving. Although the squad video does not show Braxton using a cell phone, the trooper testified that he saw Braxton "holding a cell phone in front of the steering wheel" and

"looking directly at the screen" while Braxton was driving his pickup. The district court expressly credited the trooper's testimony by stating that "his eyes are faster than the camera that we can see." The district court added that "[t]he camera is support of what [the trooper] testified." The squad video included the trooper's contemporaneous statement of what he saw: "Driver, clear line of sight, holding cell phone in front of the steering wheel and looking at the screen while driving."

Although Braxton urges us to discredit the trooper's testimony based on the squad car's speed, the distance between the vehicles, and the pickup's tinted windows, we decline to do so. We defer to the district court's credibility determination. *Id.* Also, an appellate court cannot "re-weigh the evidence" and find facts on appeal. *See Metcalfe*, 13 N.W.3d at 711 (quotation omitted).

Braxton contends that his cell-phone "call and text records" from the date of the offense prove that he "did not have a cell phone." Braxton included copies of cell-phone records in the addendum filed with this court. Braxton, however, did not submit these records during trial, and they were not filed with the district court. Therefore, the cell-phone records are not in the appellate record and we decline to consider them. *See State v. Zielinski*, 10 N.W.3d 1, 19 (Minn. 2024) (declining to reach the merits of some of appellant's claims "because they rely on documents outside of the appellate record").

We conclude that the record evidence is sufficient to prove that Braxton was using a cell phone while driving.

B. The circumstantial evidence is sufficient to sustain the district court's finding that Braxton accessed prohibited content on his cell phone.

The district court found Braxton guilty of accessing "video content, audio content, images, games, or software applications" stored on the cell phone. Minn. Stat. § 169.475, subd. 2(a)(2)(iii). The squad video, however, did not show Braxton or the cell phone. The trooper testified that Braxton was "looking directly at the screen" but did not testify about what was on the cell-phone screen. Thus, there is no direct evidence that Braxton was using a cell phone to access prohibited content. We therefore consider the circumstantial evidence supporting the second element of the offense.

"Circumstantial evidence is entitled to the same weight as direct evidence; however, if a conviction is based on circumstantial evidence, a higher level of scrutiny is warranted." *Bernhardt v. State*, 684 N.W.2d 465, 477 (Minn. 2004). Appellate courts apply a two-step analysis to determine whether there is sufficient circumstantial evidence to affirm a conviction. *State v. Gilleylen*, 993 N.W.2d 266, 275 (Minn. 2023).

First, the appellate court must "identify the circumstances proved" and, in doing so, "winnow down the evidence presented at trial by resolving all questions of fact in favor of the fact-finder's verdict." *State v. Isaac*, 9 N.W.3d 812, 815 (Minn. 2024) (quotation omitted). "This step preserves the fact-finder's credibility findings and recognizes that the fact-finder is in a unique position to determine the credibility of the witnesses and weigh the evidence before it." *Id.* (quotation omitted).

Second, the appellate court must "consider whether the reasonable inferences that can be drawn from the circumstances proved, when they are viewed as a whole and not as

discrete isolated facts, are consistent with the hypothesis that the accused is guilty and inconsistent with a hypothesis the accused is not guilty." *State v. Ulrich*, 3 N.W.3d 1, 11 (Minn. 2024). At this step in the analysis, "we do not defer to the factfinder but examine the reasonableness of the inferences ourselves." *State v. McInnis*, 962 N.W.2d 874, 890 (Minn. 2021).

The relevant circumstances proved show that, while Braxton was driving a pickup on Interstate 94, he was "holding a cell phone in front of the steering wheel, looking directly at the screen." As the trooper drew even with the pickup, Braxton "looked over at" the trooper, who was looking at Braxton, and Braxton "immediately dropped the phone down."

The circumstances proved are consistent with Braxton's guilt of using a cell phone to access "video content, audio content, images, games, or software applications." Minn. Stat. § 169.475, subd. 2(a)(2)(iii). Braxton was holding a cell phone and looking at the screen while driving his pickup. He "immediately dropped" the cell phone when he saw a trooper watching him, which suggests that Braxton knew he was doing something wrong. From these circumstances, it is reasonable to infer that Braxton was accessing prohibited content on his cell phone.

We next consider whether the circumstances proved are consistent with a reasonable hypothesis other than Braxton's guilt. "To successfully challenge a conviction based upon circumstantial evidence, a defendant must point to evidence in the record that is consistent with a rational theory other than his guilt." *State v. Stein*, 776 N.W.2d 709, 714 (Minn. 2010) (quotation omitted). "[P]ossibilities of innocence do not require reversal" of a verdict

based on circumstantial evidence "so long as the evidence taken as a whole makes such theories seem unreasonable." *Id.* (quotation omitted).

Braxton's brief does not argue that the circumstances proved by the state support a reasonable inference other than his guilt of accessing prohibited content. Braxton's sole argument on appeal is that he "was not operating a cell phone." During trial, his attorney argued that the trooper may have seen a "wallet, a lighter, a carton of cigarettes even." This is a challenge to the first element, not the second element. Because the record includes direct evidence proving that Braxton held a cell phone, we do not consider these to be reasonable alternative hypotheses.

We will not speculate about what Braxton was accessing on his cell phone because the issue was not briefed. *See State v. Hurd*, 763 N.W.2d 17, 32 (Minn. 2009) (declining to reach an issue "not raised in the parties' briefs"). Still, we conclude that the only reasonable inference to be drawn is that Braxton was accessing prohibited content on his cell phone because he dropped the cell phone when he saw the trooper pull even with his pickup.

Because we conclude that the record evidence is sufficient to support both elements of the petty misdemeanor of driving while using a cell phone to access prohibited content, we affirm the district court's finding of guilt.

Affirmed.