STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1126

State of Minnesota,
Respondent,

vs.

Lawrence Edward Walker McDowell,
Appellant.

Filed June 30, 2025
Affirmed
Kirk, Judge[*]

Hennepin County District Court
File No. 27-CR-23-16128

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

Mary F. Moriarty, Hennepin County Attorney, Robert I. Yount, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Thomas H. Boyd, Kyle R. Kroll, Eleanor M. Borden, Special Assistant Public Defenders, Winthrop & Weinstine, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Bentley, Judge; and Kirk, Judge.

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[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

KIRK, Judge

On appeal from the district court's judgment of conviction, appellant argues (1) the district court erred by denying suppression of the evidence against him, and (2) insufficient evidence supported the conviction. We affirm.

FACTS

During the evening of July 30, 2023, at approximately 10:00 p.m., Sergeant A.R. was patrolling neighborhoods in North Minneapolis. He passed a man in a vehicle with "large spiderweb type . . . cracks" that covered approximately one-third of the windshield on the driver's side. Sergeant A.R. turned his squad car around to look at the vehicle again and the vehicle drove away from him. When Sergeant A.R. caught up to the vehicle again, he intended to perform a traffic stop, but the vehicle turned into a gas station before he was able to do so. Sergeant A.R. drove past the vehicle and provided its license plate number and description to police dispatch. Dispatch informed Sergeant A.R. that a person named Lawrence McDowell "was associated" with the vehicle, had a felony warrant out for their arrest, and "had a history with controlled substance crimes."

Sergeant N.L. and Detective N.P. were in a separate squad car and were also patrolling the same area at that time. They heard the information about the vehicle with the cracked windshield over the radio, that another officer had attempted to make a traffic stop, and that there was an active arrest warrant for Lawrence McDowell. They went to the area where the vehicle was last seen and located it driving with the cracked windshield. "As soon as [they were] behind it," the vehicle drove into a parking lot. The vehicle parked

between two other cars, and the officers parked behind it and activated the squad-car's emergency lights. Sergeant N.L. approached the driver's side of the vehicle to speak with the driver, and Detective N.P. approached the passenger side. As the traffic stop transpired, a crowd gathered.

As Sergeant N.L. approached the driver's side, he realized there was limited space for him to maneuver between the vehicle and the other car parked next to it, so he requested the driver to step out of the vehicle. When the driver—who was wearing an apron—stepped out, Sergeant N.L. asked the driver if he had any weapons and performed a pat-frisk on the apron. While Sergeant N.L. spoke with the driver, Detective N.P. walked to the passenger side and observed an open bottle of liquor and a grill in the front seat. The driver identified himself as appellant Lawrence Edward Walker McDowell, and Sergeant N.L. confirmed that McDowell had a felony warrant for his arrest.

After McDowell's arrest, Detective N.P. conducted a "brief search" of the vehicle and located a rusted firearm underneath the driver's seat. It was later determined that McDowell is prohibited from possessing a firearm because he was previously convicted of a crime of violence, namely felony fifth-degree drug possession.

After obtaining a search warrant, officers obtained a DNA sample from McDowell. McDowell's sample was compared with a DNA sample taken from the firearm. The forensic report demonstrated that more than one person's DNA was on the firearm. The major DNA profile taken from the firearm matched McDowell's sample, but the minor profile could not be interpreted by the forensic analyst.

On August 1, respondent State of Minnesota charged McDowell with one count of possession of a firearm by a prohibited person under Minn. Stat. § 624.713, subd. 1(2) (2022). McDowell moved to suppress evidence of the gun as the product of an unlawful search. After hearing the officers' testimony and reviewing the evidence consistent with the facts above, the district court denied the motion to suppress.

The parties agreed to proceed to a bench trial on stipulated facts and evidence pursuant to Minn. R. Crim. P. 26.01, subd. 3. The stipulated evidence submitted to the district court included: (1) body-camera footage of the traffic stop; (2) the DNA forensic report; (3) audio recording of McDowell during collection of the DNA sample; and (4) the register of actions and amended sentencing order from McDowell's 2006 conviction of felony fifth-degree possession of a controlled substance.

Before the district court rendered a verdict, McDowell moved for a judgment of acquittal. After a hearing on the motion, the district court took the matter under advisement. The district court then filed an order finding McDowell guilty, which did not reference the motion for a judgment of acquittal. It subsequently issued a judgment of conviction and sentenced McDowell to the mandatory minimum sentence of 60 months in prison.

DECISION

I. The district court did not err by denying the suppression motion.

When reviewing the denial of a pretrial motion to suppress evidence, appellate courts "review the district court's factual findings for clear error and its legal conclusions de novo." *State v. Molnau*, 904 N.W.2d 449, 451 (Minn. 2017). The United States and

Minnesota Constitutions prohibit "unreasonable searches and seizures" by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. Evidence obtained during an unconstitutional search or seizure must be suppressed. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011). An officer may initiate a limited, investigative seizure without a warrant if the officer has reasonable articulable suspicion of criminal activity. *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968); *see also Diede*, 795 N.W.2d at 842. An analysis of an investigative seizure at a traffic stop involves a "dual inquiry." *State v. Askerooth*, 681 N.W.2d 353, 364 (Minn. 2004). First, we determine "whether the stop was justified at its inception." *Id.* Second, we consider the scope of the stop and determine "whether the actions of the police during the stop were reasonably related to and justified by the circumstances that gave rise to the stop in the first place." *Id.*

Initial Stop

For the first time on appeal, McDowell argues that the officers did not have reasonable, articulable suspicion to conduct the traffic stop based on the cracked windshield.[1] However, in his memorandum supporting his motion to suppress in district court, he conceded that the officers' observations of a vehicle driving with a cracked windshield provides reasonable suspicion to stop the vehicle. We generally will not consider issues raised for the first time on appeal. *Roby v. State*, 547 N.W.2d 354, 357

[1] McDowell also contends that the cracked windshield cannot "serve as a basis justifying the officers' seizure" because the officers did not conduct the traffic stop at the earliest opportunity, and instead, the stop was based on the officers' subjective intent to investigate the driver for a potential felony warrant. But we do not consider the subjective intent of the police officer when evaluating the basis for the officer's reasonable, articulable suspicion. *State v. Anderson*, 683 N.W.2d 818, 823 (Minn. 2004).

(Minn. 1996). Accordingly, McDowell's argument is not properly before this court. Even if we were to consider it, we would conclude that the officers had reasonable, articulable suspicion to stop the vehicle based on the cracked windshield. In Minnesota, a person is prohibited from driving a "motor vehicle with . . . a windshield cracked . . . to an extent to limit or obstruct proper vision." Minn. Stat. § 169.71, subd. 1(a)(1) (2022). An "officer may stop a vehicle based on its having a cracked windshield only when the circumstances would lead a reasonable officer to suspect that, because of the crack's specific characteristics, it is limiting or obstructing the driver's view." *State v. Poehler*, 921 N.W.2d 577, 581 (Minn. App. 2018), *aff'd*, 935 N.W.2d 729 (Minn. 2019). Here, Sergeant A.R. testified that he observed the vehicle "with large spiderweb type cracks" that covered one-third of the windshield on the driver's side and that the vehicle drove away from him. And in response to a direct-examination question inquiring "[w]ere the cracks of a type or in a location . . . which you would suspect obstructed the driver's view," Sergeant A.R. responded "[y]es."

Expansion of the Stop

McDowell next contends that the officers unlawfully expanded the scope of the stop by questioning him and patting him down to investigate him for weapons. He argues that the investigation was not justified by the initial purpose of the stop for a cracked windshield.

Reasonable suspicion supports a traffic stop, but the justification for that initial stop "will not necessarily provide a basis for subsequent expansions of the scope" of the stop. *Askerooth*, 681 N.W.2d at 364. Each incremental intrusion during a traffic stop must be

"tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness, as defined in *Terry*." *Id.* at 365.

After the officers stopped McDowell, they asked him to step out of the vehicle. *See id.* at 367 (stating that a "police officer may order a driver out of a lawfully stopped vehicle without an articulated reason"). When McDowell walked towards the back of the vehicle, Sergeant N.L. asked him if he had any weapons in the apron and simultaneously felt the pocket of the apron. McDowell responded in the negative. Police "may stop and frisk a person when (1) they have a reasonable, articulable suspicion that a suspect might be engaged in criminal activity and (2) the officer reasonably believes the suspect might be armed and dangerous." *State v. Dickerson*, 481 N.W.2d 840, 843 (Minn. 1992), *aff'd*, 508 U.S. 366 (1993). The purpose of a frisk for weapons is to allow police officers to pursue their investigation "without fear of violence." *Adams v. Williams*, 407 U.S. 143, 146 (1972). "The officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27. During a routine traffic stop, "a pat-down search is improper unless some additional suspicious or threatening circumstances are present." *State v. Varnado*, 582 N.W.2d 886, 890 (Minn. 1998).

The first *Terry* prong for a frisk is established here, because officers had reasonable, articulable suspicion that McDowell might be engaged in criminal activity based on the information that someone named "Lawrence McDowell" had a felony warrant and that this person was associated with the vehicle they were stopping. Although the officers did not

know who the driver of the vehicle was prior to the stop, they saw only one person in the vehicle. The officers who stopped McDowell also learned from Sergeant A.R. that McDowell had driven away from Sergeant A.R. The second *Terry* prong is established because, when McDowell stepped out of the vehicle, the officers observed that his apron contained a "large heavy object" that was "readily accessible to him." The record supports a conclusion that the officers reasonably believed that McDowell might be armed and dangerous to justify a pat-down search.

Next, Sergeant N.L. asked McDowell if he had his driver's license and proof of insurance. During a traffic stop, officers may ask the driver for his name, license, and insurance information, and determine if there are outstanding warrants. *See Rodriguez v. United States*, 575 U.S. 348, 355 (2015). After Sergeant N.L. checked McDowell's records, he learned that McDowell was in fact the Lawrence McDowell with an active warrant and placed him under arrest.

To conclude, each incremental intrusion of the traffic stop was supported by reasonable, articulable suspicion and culminated in probable cause to arrest McDowell.

Vehicle Search

McDowell next contends that the district court erred by concluding that the plain view and automobile exceptions to the warrant requirement permitted officers to search McDowell's vehicle. We are not persuaded.

The plain-view exception to the warrant requirement allows police to seize, without a warrant, an "object they believe to be the fruit or instrumentality of a crime," as long as three criteria are met: "(1) the police are legitimately in the position from which they view

the object; (2) they have a lawful right of access to the object; and (3) the object's incriminating nature is immediately apparent." *State v. Zanter*, 535 N.W.2d 624, 631 (Minn. 1995) (quotation omitted). To satisfy the third criterion, an officer must have probable cause to believe the object is contraband. *State v. Milton*, 821 N.W.2d 789, 801 (Minn. 2012). "Probable cause exists where the facts available to the officer would warrant a [person] of reasonable caution in the belief that certain items may be contraband or stolen property or useful as evidence of crime." *State v. DeWald*, 463 N.W.2d 741, 747 (Minn. 1990) (quotation omitted).

"Under the automobile exception, police may search a car without a warrant, including closed containers in that car, if there is probable cause to believe the search will result in a discovery of evidence or contraband." *State v. Barrow*, 989 N.W.2d 682, 685 (Minn. 2023) (quotation omitted). The scope of the search is "defined by the object of the search and the places in which there is probable cause to believe the object may be found." *State v. Gauster*, 752 N.W.2d 496, 508 (Minn. 2008). When an officer obtains probable cause to believe that a search of an automobile will reveal open bottles of alcohol, the officer can search "where those open bottles or cans might be found." *State v. Schinzing*, 342 N.W.2d 105, 109 (Minn. 1983) (concluding that an officer's search of the passenger compartment of the vehicle was supported by probable cause given the odor of alcohol emanating from the underage passengers and their admission to drinking). The reason for the automobile exception is that the "ready mobility of an automobile creates a risk that the evidence or contraband will be permanently lost while a warrant is obtained." *Barrow*, 989 N.W.2d at 686 (quotation omitted).

As previously discussed, the officers lawfully seized McDowell for a traffic violation, and as such, were in a lawful position to view the passenger side of the vehicle. In Minnesota, it is a crime to possess an open bottle of alcohol "while in a private motor vehicle upon a street or highway." Minn. Stat. § 169A.35, subd. 3 (2022). Detective N.P. testified that he saw a liquor bottle with a stopper in the passenger seat. And his body-camera footage depicts the bottle containing brown liquid. Accordingly, the officer had probable cause to believe that McDowell possessed an open bottle of liquor in his vehicle, which laid the foundation for the search of the vehicle. *See Schinzing*, 342 N.W.2d at 109.

When Detective N.P. subsequently searched the vehicle, he found the rusted firearm underneath the driver's seat. Based on Detective N.P.'s experience, he had found alcohol underneath the driver's seat during a traffic stop before, which further supports his probable cause for searching under the driver's seat. Finally, the rationale of the automobile exception supports Detective N.P.'s conduct in this case. Because the officers did not impound the vehicle and there was a crowd gathering at the scene, Detective N.P. looked in "the general area where the driver [was] sitting, to see if [there was] anything of note" to be aware of. The vehicle, and the contents therein, easily could have been moved in the time it would take for the officers to obtain a warrant in this case, and therefore, the automobile exception applies.

In sum, the district court did not err in denying McDowell's motion to suppress, because the search and seizure were lawful.

II. Sufficient evidence supports McDowell's conviction.

McDowell contends sufficient evidence does not support his conviction of illegal possession of a firearm. He argues that the state failed to prove that he either (1) possessed the firearm or (2) had previously been convicted of a crime of violence. Each argument is addressed in turn.

In evaluating the sufficiency of the evidence, this court reviews the evidence presented at trial "to determine whether the facts in the record 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. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted); *see also State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (stating that appellate courts "use the same standard of review in bench trials and in jury trials in evaluating the sufficiency of the evidence").

The standard of review we apply when evaluating the sufficiency of the evidence also depends on whether direct or circumstantial evidence supports the conviction. *State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016) (stating that "when a disputed element is sufficiently proven by direct evidence alone, as it is here, it is the traditional standard, rather than the circumstantial-evidence standard, that governs"). Direct evidence "is based on personal knowledge or observation and . . . if true, proves a fact without inference or presumption." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). Circumstantial evidence is "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist" and thus, "always requires an inferential step to prove a fact that is not required with direct evidence." *Id.* (quotation omitted).

"When considering a sufficiency challenge to a guilty verdict based on direct evidence, an appellate court carefully analyzes the record to determine whether the evidence, viewed in the light most favorable to the conviction, was sufficient to permit the fact-finder to reach its verdict." *State v. Stone*, 982 N.W.2d 500, 509 (Minn. App. 2022), *aff'd*, 995 N.W.2d 617 (Minn. 2023). Under this standard, the appellate court assumes that "the fact-finder disbelieved any evidence that conflicted with the verdict." *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016). An appellate court will not disturb a guilty verdict if the fact-finder, acting with due regard for the presumption of innocence and requirement of proof beyond a reasonable doubt, could reasonably have concluded that the state proved the defendant's guilt. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

However, if the state relied on circumstantial evidence to prove an element of an offense, an appellate court applies a heightened standard of review. *See Harris*, 895 N.W.2d at 601 (discussing circumstantial-evidence standard); *Al-Naseer*, 788 N.W.2d at 471 (stating that "the heightened scrutiny applies to any disputed element of the conviction that is based on circumstantial evidence"). Under the circumstantial-evidence standard of review, an appellate court first determines the circumstances proved, disregarding evidence that is inconsistent with the verdict. *Harris*, 895 N.W.2d at 601. Next, the appellate court must "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt." *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017) (quotation omitted). The appellate court does not defer to the fact-finder's choice between reasonable inferences. *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013). But an appellate court will not reverse a conviction based on circumstantial

evidence unless there is a reasonable inference other than guilt. *Loving*, 891 N.W.2d at 643.

Possession of the Firearm

McDowell was convicted under Minn. Stat. § 624.713, subd. 1(2), which makes it a felony for a person "who has been convicted of . . . a crime of violence" to possess a firearm. *See* Minn. Stat. § 624.713, subd. 2(b) (2022) (stating that a person who violates subdivision 1, clause (2) is guilty of a felony). Possession may be actual or constructive. *State v. Loyd*, 321 N.W.2d 901, 902 (Minn. 1982). "Actual possession, also referred to as physical possession, involves direct physical control." *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016) (quotation omitted). Unlike actual possession, proof of constructive possession "permits a conviction where the state cannot prove actual possession, but the inference is strong that the defendant physically possessed the item at one time and did not abandon his possessory interest in it." *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000), *rev. denied* (Minn. Jan. 16, 2001).

To establish constructive possession the state must prove the defendant "consciously exercised dominion and control over [the firearm]." *State v. Willis*, 320 N.W.2d 726, 728-29 (Minn. 1982). To do so, the state must prove either (1) the item was found in a place under the defendant's exclusive control to which other people did not normally have access, or (2) the item was found in a place to which others had access and there is a strong probability, inferable from the evidence, that the defendant was at that time consciously exercising dominion and control over the item. *State v. Florine*, 226 N.W.2d 609, 611 (1975).

The parties disagree as to whether the evidence supporting the possession element of the offense—in particular, the DNA evidence—was direct or circumstantial. We need not resolve this dispute, however, because we conclude that the evidence was sufficient to prove this element beyond a reasonable doubt even under the more deferential circumstantial-evidence standard of review.

Applying the first step of the circumstantial evidence test, we determine the circumstances proved that are consistent with the verdict. The circumstances proved are: (1) McDowell was the sole occupant and driver of the vehicle; (2) the vehicle was registered to McDowell's girlfriend; (3) items belonging to McDowell were located on the passenger seat and in the backseat; (4) police found the firearm underneath the driver's seat; and (5) DNA testing showed that there was more than one person's DNA on the firearm and that McDowell's DNA matched the major DNA profile on the firearm.

Applying the second step, the circumstances proved are consistent with McDowell's guilt. Specifically, the circumstances proved are consistent with an inference that McDowell consciously exercised dominion and control over the firearm. McDowell's girlfriend likely had access to the vehicle, because she was the registered owner of the vehicle. But McDowell was the only person in the vehicle at the time of the traffic stop. The proximity of the firearm to McDowell, underneath the seat that he was sitting in, demonstrates that he exercised dominion and control over it. *See Smith*, 619 N.W.2d at 770 (stating that "[p]roximity is an important consideration in assessing constructive possession"). Finally, his DNA was the major DNA profile found on the firearm.

McDowell argues that it is reasonable to infer that "his DNA indirectly transferred onto the gun" through bodily fluids, but this is not a reasonable inference given that his DNA was the major profile in the sample taken from the firearm and the DNA report stated that the minor profile could not be interpreted. He also asserts that it is reasonable to infer that the girlfriend left the firearm in the vehicle. But none of the evidence presented to the district court suggested that this had occurred, and a hypothesis other than guilt may not be based on "mere conjecture or speculation." *Al-Naseer*, 788 N.W.2d at 480 (quotation omitted). Moreover, even had his girlfriend done so, this would not make the evidence inconsistent with a conclusion that McDowell consciously exercised dominion and control over the firearm by knowingly transporting it in the vehicle.

Prior Conviction of a Crime of Violence

McDowell next contends the state failed to prove that McDowell had previously been convicted of a crime of violence. He argues that the state's evidence of the register of actions was insufficient and that because the prior conviction no longer constitutes a felony under recently enacted law, he should not be subject to adjudication for unlawful possession of a firearm.

During the relevant period, a "crime of violence" was statutorily defined as "felony convictions" of, among other things, offenses under "chapter 152." Minn. Stat. § 624.712, subd. 5 (2022). As demonstrated by the register of actions and the amended sentencing order that were entered as stipulated evidence, McDowell was convicted in 2006 of felony fifth-degree possession of a controlled substance under Minn. Stat. § 152.025, subd. 2(1) (2004). McDowell argues this stipulated evidence was insufficient, because it fails to

demonstrate that the "conduct forming the basis for [his] 2006 conviction violates § 152.025, subd. 2(1)." But to be ineligible to possess a firearm, one must only be *convicted* of a felony under chapter 152. *See* Minn. Stat. § 624.712, subd. 5. The register of actions and amended sentencing order aptly proves that McDowell was convicted of such a felony.

McDowell next argues that "[a]s a matter of public policy, it is unjust for the State to prosecute charges under Minn. Stat. § 624.713, subd. 1(2) by relying on a prior conviction for conduct that is no longer prohibited." It is true that the 2024 version of Minn. Stat. § 152.025, subd 2(1) exempts the possession of certain cannabis products from the definition of a fifth-degree possession crime, and that conviction under the statute may only be a gross misdemeanor, *see* Minn. Stat. § 152.025, subd. 4(a). But the prohibition on possession of firearms "begins at conviction." *See State v. Weber*, 741 N.W.2d 402, 404-05 (Minn. App. 2007) (analyzing a different statute imposing a lifetime prohibition on possessing firearms). Our review is limited to our role as an error-correcting court. *See Lake George Park, L.L.C. v. IBM Mid-Am. Emps Fed. Credit Union*, 576 N.W.2d 463, 466 (Minn. App. 1998) (stating that "[t]his court, as an error correcting court, is without authority to change the law"), *rev. denied* (Minn. June 17, 1998). There is nothing in the 2024 versions of the relevant statutes to indicate that they apply retroactively or that we should reverse McDowell's conviction because the underlying felony conviction may no longer be a felony under the current statutes, which were not in effect at the time McDowell possessed a firearm.

Affirmed.