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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0520**

State of Minnesota,
Respondent,

vs.

Gerald Benedict St. John, Jr.,
Appellant.

**Filed March 25, 2013
Affirmed
Collins, Judge***

Itasca County District Court
File No. 31-CR-11-2079

Lori Swanson, Attorney General, Michael T. Everson, Assistant Attorney General, St. Paul, Minnesota; and

John J. Muhar, Itasca County Attorney, Grand Rapids, Minnesota (for respondent)

David Merchant, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cleary, Presiding Judge; Ross, Judge; and Collins,
Judge.

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

UNPUBLISHED OPINION

COLLINS, Judge

In this appeal from his conviction of second-degree burglary, appellant argues that the circumstantial evidence is insufficient to sustain the jury's verdict because the circumstances proved permit a reasonable inference that is inconsistent with guilt. We affirm.

FACTS

On November 16, 2010, T.G. and M.G. (the victims) left home at about 8:00 a.m. to attend a weekly community-center gathering. They returned about three hours later, discovered that their house had been burglarized, and called the sheriff.¹

The responding deputy conducted a preliminary investigation, found no indications of forced entry, and noted that the house was not in disarray. Based on his experience, the deputy concluded that “the lack of the physical destruction inside the house” indicated that the burglar “knew the layout [of the house, was] either a relative or friend,” and “knew where they were going.” The victims itemized their missing property, including a chainsaw, jewelry, and two cameras. The deputy had the descriptions and serial numbers entered into a stolen-items database. The home-telephone caller-ID record showed two missed calls received from the same telephone number—one at 9:48 a.m., the other at 10:17 a.m.

¹ According to telephone records, the earliest evidence of the victims' return home was a call placed by one of them at 10:55 a.m.

Appellant Gerald St. John, Jr. was familiar with the victims and their house; he had lived with them there for nearly a year between 1994 and 1995. At 12:14 p.m. the day of the burglary, St. John pawned the stolen chainsaw at a Bemidji pawnshop, some 65 miles away from the victims' house. According to testimony at St. John's trial, the drive would take between 75 and 90 minutes, depending on traffic. The next day, St. John's friend, L.S., pawned the stolen jewelry at another pawnshop in Bemidji. L.S. testified that he provided his identification only as required to complete the transaction, but it was actually St. John who pawned the jewelry. Ten days after the burglary, St. John's sometimes-girlfriend, A.R., pawned one of the stolen cameras at a third pawnshop in Bemidji. The telephone number listed by A.R. on the pawn information sheet matched the telephone number of the two missed calls shown on the victims'-telephone caller-ID record. The pawned camera contained pictures of St. John apparently taken a few days after the burglary. All of the pawned items were matched by the stolen-items database.

The state charged St. John with second-degree burglary in violation of Minn. Stat. § 609.582, subd. 2(a)(1) (2010). The trial jury found him guilty, and the district court adjudicated the conviction and sentenced St. John to 39 months' imprisonment. This appeal followed.

DECISION

When reviewing a challenge to the sufficiency of the evidence, we conduct a thorough analysis of the record to determine whether the jury reasonably could find the defendant guilty of the charged offense based on the facts in the record and the legitimate

inferences drawn from those facts. *State v. Chambers*, 589 N.W.2d 466, 477 (Minn. 1999). In doing so, we view the evidence in the light most favorable to the guilty verdict, assuming that the jury believed the evidence supporting the verdict and disbelieved evidence to the contrary. *State v. Fleck*, 777 N.W.2d 233, 236 (Minn. 2010). Determining the credibility and the weight of witness testimony is within the exclusive province of the jury. *State v. Folkers*, 581 N.W.2d 321, 327 (Minn. 1998). We will not disturb a guilty verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, reasonably could conclude that the defendant is guilty of the charged offense. *State v. Alton*, 432 N.W.2d 754, 756 (Minn. 1988).

A person is guilty of second-degree burglary when the state proves beyond a reasonable doubt that the person “enter[ed] a building without consent and with intent to commit a crime, or enter[ed] a building without consent and commit[ed] a crime while in the building, either directly or as an accomplice . . . [if] the building is a dwelling.” Minn. Stat. § 609.582, subd. 2(a)(1).

It is undisputed that St. John’s conviction rests solely on circumstantial evidence. Circumstantial evidence is entitled to the same weight as any other evidence, provided that the “circumstances proved are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis except that of guilt.” *State v. Pirsig*, 670 N.W.2d 610, 614 (Minn. App. 2003), *review denied* (Minn. Jan. 20, 2004). For circumstantial evidence to support a conviction, the evidence “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. Pratt*, 813 N.W.2d 868, 874 (Minn. 2012) (quotation omitted).

St. John contends that the circumstantial evidence gives rise to a reasonable inference other than guilt. But an appellant must demonstrate more than mere conjecture to overturn a conviction based on circumstantial evidence. *State v. Lahue*, 585 N.W.2d 785, 789 (Minn. 1998). When reviewing circumstantial evidence, this court employs a two-part test. *State v. Hanson*, 800 N.W.2d 618, 622 (Minn. 2011). First, we must identify the circumstances proved by the evidence; then, we must independently examine the reasonableness of all inferences drawn from those circumstances and determine whether there is a reasonable inference other than guilt. *Id.* at 622. When engaging in such an analysis, we view the evidence as a whole. *Id.* at 623.

Here, the circumstances proved are not disputed; rather, at issue are reasonable inferences that can be drawn from those facts. Among other facts, the circumstances proved include (1) the burglary occurred between 8:00 and 11:00 a.m.; (2) telephone calls to the house were made from a number matching that of St. John’s sometimes-girlfriend at 9:48 and 10:17 a.m.; (3) the house was not ransacked, leading the experienced investigating deputy to believe that the burglar was familiar with the house and the victims; (4) St. John had lived at the house with the victims during 1994-1995; (5) the property stolen in the burglary included a chainsaw; (6) St. John pawned the stolen chainsaw in Bemidji at 12:14 p.m. the day of the burglary; and (7) the driving time from the victims’ house to the Bemidji pawnshop is between 75 and 90 minutes.

St. John concedes that the circumstances may support “[a] reasonable inference . . . that [he] participated in the burglary,” but he contends that an equally reasonable inference is that he “merely took possession of the stolen chainsaw after the burglary for the purpose of pawning it.” St. John’s suggested inference relies on A.R.’s testimony that her son’s father, now deceased, brought her certain items that she did not know to be stolen, and she asked St. John to pawn them. A.R. testified that the items were at her home “[f]or some time,”—at least “hours” and up to two days—before St. John pawned the chainsaw.

Again, weighing the credibility of witnesses is within the exclusive province of the jury. *Folkers*, 581 N.W.2d at 327. Because we view the evidence in the light most favorable to the guilty verdict, it is apparent that the jury disbelieved A.R.’s testimony as to how she obtained the items of stolen property and her timeline of events exonerating St. John. *See State v. Hough*, 585 N.W.2d 393, 396 (Minn. 1998) (“A factfinder evaluates the credibility of witnesses and need not credit [] exculpatory testimony.”) St. John’s contention that he may have innocently taken possession of stolen property and pawned it is simply not a reasonable inference based on the circumstances proved. *See Hanson*, 800 N.W.2d at 622. Indeed, the timeline derived from A.R.’s testimony does not support St. John’s asserted inference of his innocence. It is unreasonable to infer from the circumstances proved that the chainsaw stolen in a burglary after 8:00 a.m., and most likely later than 10:17 a.m.,² could have been delivered to A.R.’s home, kept by her

² A reasonable inference from the circumstances proved is that the burglary occurred after 10:17 a.m., when the second call from A.R.’s phone was made to the victims’

for “hours,” turned over to St. John, and pawned by him at 12:14 p.m.—65 miles and at least 75 minutes away from the victims’ house. With A.R.’s exculpatory timeline discredited, St. John must demonstrate an alternative reasonable inference from the circumstances proved that is inconsistent with the guilty verdict. While we respect St. John’s right to remain silent, we will not reverse a guilty verdict based on “mere conjecture.” *Lahue*, 585 N.W.2d at 789. Any alternative reasonable inference to the guilty verdict must be readily identifiable. *See Id.* On our careful independent review of the record, we see no such reasonable inference.

When considered as a whole and viewed in the light most favorable to the jury’s verdict, the evidence unerringly points to St. John as being involved in the burglary, either directly or as an accomplice. The circumstantial evidence forms a complete chain supporting the jury’s guilty verdict. *See Pratt*, 813 N.W.2d at 874. St. John fails to show, and we cannot readily identify from the record, any reasonable inference drawn from the evidence other than St. John is guilty as charged.

Affirmed.

house. One of the victims testified that, although he was acquainted with A.R. through her relationship with St. John, he did not recognize A.R.’s phone number or have regular contact with her. It was reasonable for the jury to infer that these phone calls were made before the burglary to be sure that no one was present in the victims’ house.