

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1165**

State of Minnesota,
Respondent,

vs.

Bee Yang,
Appellant.

**Filed June 9, 2025
Affirmed
Bjorkman, Judge**

Nicollet County District Court
File No. 52-CR-23-74

Keith Ellison, Attorney General, Lydia Villalva Lijó, Assistant Attorney General, St. Paul, Minnesota; and

Michelle Zehnder Fischer, Nicollet County Attorney, St. Peter, Minnesota (for respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Connolly, Judge; and Segal, Judge.*

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

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his conviction of identity theft involving 8 or more victims and 9 of his 11 convictions of mail theft, arguing that (1) insufficient evidence supports his identity-theft conviction, which requires both reversal of that conviction and vacation of the resulting \$53,000 restitution order; and (2) insufficient evidence supports 9 of his mail-theft convictions. We affirm.

FACTS

In March 2023, appellant Bee Yang was living in R.C.’s apartment. The apartment consisted of three rooms—a main room, a bedroom, and a bathroom. R.C. used the main room as her bedroom, and Yang used the bedroom and kept his belongings in there.

On March 14, Yang was alone in the apartment when police conducted a warranted search of the apartment related to suspected drug use. During the search, police recovered various items that led them to suspect that R.C. and Yang were involved in fraud, forgery, or theft, and they obtained a second warrant to expand the search. From the bedroom, they recovered three checks and a debit card not in R.C.’s or Yang’s name, as well as a typewriter and a gasoline additive that is commonly used to fade ink or “wash” checks. In the main room, police found several bags, including a red bag containing numerous identity documents. Also in that room, police saw an open space in the ceiling where a ceiling panel was “off.” Inside this open space, they found a plastic grocery bag that contained items of “recent” mail, all bearing the names of others—not R.C. or Yang.

Police also searched Yang's phone, finding the following exchange of text messages between R.C. and Yang from the day before the search. R.C. said: "Dude we gotta get a MICR^[1] printer! That check didn't go through cuz says 'Altered.' So stop gambling all yo money away Bee frfr." Yang responded (although the message did not go through) by saying, "Both check did."

Yang agreed to speak with police and said that he slept in the bedroom and that the items in that room were his. He said that he had been staying there for about a month and had a key to the apartment door. Yang explained that R.C. was stealing mail and forging checks but denied that he was involved. But he also, at times, referred to himself as a "middleman" or an "associate" in R.C.'s theft and forgery.

Respondent State of Minnesota charged Yang with 4 counts of check forgery; 11 counts of mail theft based on knowing possession of stolen mail; and 1 count of identity theft involving 8 or more victims.² Yang waived his right to a jury trial. During the bench trial, the officers involved in the search of the apartment and the ensuing investigation testified to the facts described above. The state also presented the testimony of numerous people whose mail and identity documents or those of their family members (or both) were found in the apartment—none of whom knew Yang or had given him permission to have their documents. And to show intent, preparation, common scheme or plan, and absence of mistake, the state also presented evidence of several of Yang's prior convictions: a June

¹ "MICR" stands for magnetic ink and character recognition.

² Yang was also charged with and convicted of a controlled-substance offense, but that conviction is not at issue in this appeal.

2022 conviction of identity theft, an August 2022 conviction of check forgery, and a July 2016 conviction of check forgery.

The district court found Yang guilty of 1 check-forgery count, all 11 counts of mail theft, and the 1 count of identity theft, and convicted him of each of those offenses. It imposed a prison sentence and ordered Yang to pay restitution of \$53,000 for the identity theft—\$1,000 for each victim identified in the state’s restitution certificate.

Yang appeals.

DECISION

When considering a challenge to the sufficiency of the evidence, we carefully review the record “to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the [fact-finder] to reach its verdict.” *Lapenotiere v. State*, 916 N.W.2d 351, 360-61 (Minn. 2018) (quotation omitted). Where, as here, “a conviction is based on circumstantial evidence, we apply a heightened, two-step standard of review to decide whether the evidence is sufficient.” *State v. Colgrove*, 996 N.W.2d 145, 150 (Minn. 2023); *see also State v. Olson*, 982 N.W.2d 491, 496 (Minn. App. 2022) (stating that this same standard applies for bench trials and jury trials). First, we identify the “circumstances proved.” *Colgrove*, 996 N.W.2d at 150 (quotation omitted). This requires us to “winnow down the evidence presented at trial by resolving all questions of fact in favor of the [fact-finder’s] verdict, resulting in a subset of facts that constitute the circumstances proved.” *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017) (quotation omitted). In doing so, we disregard evidence that is inconsistent with the verdict. *Id.* at 601. Second, we independently

consider what reasonable inferences may be drawn from the circumstances proved. *Colgrove*, 996 N.W.2d at 150. The reasonable inferences must be consistent with guilt and “inconsistent with any rational hypothesis other than guilt.” *Id.* (quotation omitted).

I. Sufficient evidence supports Yang’s conviction of identity theft involving eight or more victims.

The state was required to prove that Yang “possesse[d] . . . an identity that is not [his] own, with the intent to commit, aid, or abet any unlawful activity,” and that the offense “involve[d] eight or more direct victims.” Minn. Stat. § 609.527, subds. 2, 3(5) (2022). Yang does not dispute that the state proved that police found in the apartment documents associated with well over eight people, or that these documents contain information that satisfies the “identity” element of the offense.³ He disputes only the sufficiency of the evidence that he possessed all of these documents.

Possession here means constructive, not actual or physical, possession. The state can prove a defendant constructively possessed an item by showing (1) it was in a place “under the defendant’s exclusive control to which other people normally did not have access,” or (2) it was in a place to which others had access but “there is a strong probability (inferable from other evidence) that at the time the defendant was consciously or knowingly exercising dominion and control over it.” *Harris*, 895 N.W.2d at 601 (citing *State v. Florine*, 226 N.W.2d 609, 611 (Minn. 1975)). The latter of these requires not merely

³ The term “identity” means “any name, number, or data transmission that may be used, alone or in conjunction with any other information, to identify a specific individual or entity.” Minn. Stat. § 609.527, subd. 1(d) (2022). It includes information like Social Security numbers, account numbers, government-issued identification numbers, and even names and dates of birth. *Id.*

proximity or easy access but “ability and intent to exercise dominion and control.” *Id.* at 601-02. That someone other than the defendant is also able and intending to exercise dominion and control over an item does not negate the defendant’s constructive possession because “[a] defendant may possess an item jointly with another person.” *Id.* at 601.

Viewing the record in the light most favorable to the guilty verdicts, the state proved the following circumstances relevant to possession. Yang had keys to the apartment, with access to the main room, and generally slept in the bedroom. He was alone in the apartment when police searched it and acknowledged sleeping in the main room the night before the search. Police recovered identity documents and other materials from three locations in the apartment. First, in Yang’s bedroom, police discovered three checks and a debit card that were not Yang’s; they were located near items used to alter checks, and the checks appeared to have been altered. Second, in a plastic bag in an opening in the ceiling of the main room, police found recent mail and numerous identity documents, none of which belonged to Yang. Among those items were the pieces of mail from which the checks in Yang’s room had been taken. Third, in a red bag in the main room, police found more recent mail and identity documents—again, none of them Yang’s. Among those items were Social Security cards and other identity documents for people with the same surname as the debit card found in Yang’s room.

In addition to these items, police also recovered a text message exchange between Yang and R.C. in which they discussed depositing checks and an MICR printer like those that financial institutions use for checks. In his statements to police, Yang also did not

consistently deny any connection to the stolen documents; sometimes he told police that he was an “associate” or “middleman” in the process of using them.

Yang acknowledges that these circumstances proved amply establish that he possessed five people’s identity documents—those found in his bedroom. But he contends that they do not exclude the reasonable possibility that he did not know about, and therefore did not possess, the identity documents found elsewhere in the apartment. He posits, for example, that it would be reasonable to envision a scenario in which he played a small role in an identity-theft scheme that R.C. helmed, not knowing the full scale of the scheme. This contention is unavailing because it does not account for the full circumstantial picture—Yang’s ready access to all three caches of identity documents, the connections between the documents found in his room and elsewhere in the apartment, the text messages and his own statements to police indicating his involvement in check forgery (and his unchallenged check-forgery conviction), and his history of multiple similar offenses that tends to belie any claim of mistaken proximity to or marginal involvement in identity theft. When we consider all of these circumstances, the only reasonable inference is that Yang possessed all of the identity documents found in the apartment. As such, sufficient circumstantial evidence supports his conviction of identity theft involving eight or more victims.⁴

⁴ Yang also argues that, if we agree that the evidence is insufficient to support his identity-theft conviction, we should also vacate the restitution order that is based on that conviction. Because his insufficiency claim fails and he identifies no other error in the restitution order, his challenge to the restitution order also fails.

II. Sufficient evidence supports Yang’s nine challenged convictions of mail theft.

The crime of mail theft can occur in various ways. A person commits mail theft if they intentionally deceive a mail carrier, or if they “intentionally and without claim of right” remove mail from a “mail depository,” take it from a mail carrier, remove the contents of mail addressed to another, or take mail (or its contents) left for collection. Minn. Stat. § 609.529, subd. 2(1)-(5) (2022). Or, as pertinent here, they commit mail theft if they possess mail “obtained by” any of those acts, “knowing or having reason to know the mail was obtained illegally.” *Id.*, subd. 2(6) (2022).

Yang was convicted under this last definition of mail theft and again challenges the sufficiency of the evidence that he possessed the items of mail found outside his bedroom. This challenge encompasses nine of his mail-theft convictions. But the same circumstances and inferences that we detailed above apply and defeat his argument. Moreover, Yang implicitly recognizes the shortfall in his argument by acknowledging that two of his convictions rest on sufficient circumstantial evidence because they pertain to items of stolen mail found in the ceiling for which the corresponding checks were found in his bedroom. Taking into account all of the circumstances proved, including the fact that the items of stolen mail that he disputes possessing were bundled together with those he acknowledges possessing, the possibility that Yang did not possess all of the stolen mail is so improbable as to be unreasonable. As such, his claim of insufficient evidence fails.

Affirmed.