

*This opinion is nonprecedential except as provided by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
A24-1476**

James Wayne Gamble, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

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

Lac Qui Parle County District Court
File No. 37-CR-21-291

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Workman Jesness,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, Keaon Dousti, Assistant Attorney General, St. Paul,
Minnesota; and

Richard Stulz, Lac Qui Parle County Attorney, Madison, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Cochran, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the district court's denial of his petition for postconviction relief from his conviction of first-degree sale of controlled substances, arguing that law enforcement did not have reasonable articulable suspicion to initiate the traffic stop that

led to the discovery of the controlled substance and that there is insufficient evidence in the record to sustain his conviction. Because law enforcement had reasonable articulable suspicion to initiate a traffic stop and the circumstantial evidence supports appellant's conviction, we affirm.

FACTS

In October 2021, a deputy of the Lac qui Parle County Sheriff's Office conducted a traffic stop and search of a car driven by appellant James Wayne Gamble. The search revealed, among other contraband, 27 grams of methamphetamine. Respondent State of Minnesota charged Gamble with one count of second-degree possession of controlled substances in violation of Minnesota Statutes section 152.022, subdivision 2(a)(1) (2020), one count of driving while impaired in violation of Minnesota Statutes section 169A.20, subdivision 1(7) (Supp. 2021), and one count of first-degree sale of controlled substances in violation of Minnesota Statutes section 152.021, subdivision 1(1) (2020). Gamble subsequently moved to suppress all evidence found as a result of an unlawful traffic stop.

Contested Omnibus Hearing

The district court held a contested omnibus hearing to address Gamble's motion. The deputy who conducted the traffic stop was the only witness to testify at the hearing. The following describes the facts as established by his testimony at the omnibus hearing. In October 2021, while the deputy was on patrol, he stopped at an intersection facing westbound when he noticed a car traveling northbound on Highway 75. As the car crossed the deputy's line of sight, the driver, who would later be identified as Gamble, "looked in [his] direction and then immediately looked back straight ahead." The driver was wearing

sunglasses, a hat, and a hood covering the majority of his face. The deputy ran the license plate of the car and noticed it was not reported stolen but was registered to an “elderly female.” The deputy recognized that the driver of the car was not an “elderly female,” but was instead a “middle-aged, Caucasian male.”

Based on this information, the deputy decided to follow the car. When the deputy got behind the car, Gamble “immediately” turned onto a gravel road. The deputy followed. After traveling about “150, 200 yards,” Gamble drove the car to the right side of the road and came to a stop but left the car running. The deputy then pulled up behind Gamble’s car with the intention of doing a welfare check. Before the deputy could get fully out of the patrol car, Gamble abruptly drove away. The deputy turned on his emergency lights and initiated a traffic stop.

After making contact, the deputy recognized the driver as Gamble from a previous interaction about a month prior. When the deputy returned to his squad car, he checked Gamble’s driving status and learned that his license had been revoked. The deputy further knew that another deputy had recently tried to contact Gamble. After speaking to the other deputy on the phone, the deputy learned that Gamble’s probation agent wanted Gamble arrested on an arrest and detain (A&D) warrant.

The deputy informed Gamble of the A&D warrant. The deputy arrested Gamble and informed him that the car would be towed because it was a traffic hazard. The deputy also informed Gamble that he would conduct an inventory search of the car prior to towing. The deputy asked Gamble if there was any contraband in the car, to which Gamble initially stated there was not. But he then quickly added that all his possessions were on the hood

of the car and anything else in the car was not his. At some point prior to the inventory search, Gamble informed the deputy that he was purchasing the car from someone other than the registered owner, and that there was methamphetamine in the backseat of the car. During the inventory search, the deputy located a sunglasses case in the back seat. Inside the case was a plastic bag with a “large amount” of a substance, which Gamble identified as methamphetamine. Also in the vehicle were “various paraphernalia items.” After being arrested, Gamble provided a UA as requested by probation, which came back positive for “meth, amphetamines, THC, and MDMA.”

Following the omnibus hearing, the state submitted a written memorandum of law arguing that Gamble’s motion to suppress should be denied because the initial stop was a lawful welfare check and there was reasonable articulable suspicion to expand the scope of the stop.

In a written order, the district court denied the motion to suppress. The court agreed with the state that the deputy had reasonable articulable suspicion of criminal activity to initiate the traffic stop based on the totality of the circumstances, especially Gamble’s evasive driving. The district court noted that when the deputy first saw Gamble’s vehicle, the deputy noticed that Gamble was dressed in a manner that seemed to hide Gamble’s face and that Gamble looked away from the deputy. After the deputy learned that the car did not belong to Gamble and started following the vehicle, Gamble turned off the main highway onto a dirt road and pulled over as though he wanted the deputy to drive past him. And when the deputy stopped his car behind Gamble’s car to conduct a welfare check, Gamble immediately drove off. The district court determined that this action demonstrated

to the deputy “that Gamble wanted to get away.” Based on these circumstances, the district court concluded that the traffic stop was supported by reasonable articulable suspicion.¹

Trial

The case proceeded to a jury trial. At trial, the state called the deputy who arrested Gamble, a Bureau of Criminal Apprehension (BCA) forensic scientist, and an agent from a drug and gang task force. The deputy’s testimony largely reflected his testimony at the omnibus hearing, but he provided some additional details at trial. The deputy testified that when he first approached Gamble after initiating the traffic stop, Gamble was on the phone with someone whom the deputy believed to be Gamble’s wife. The deputy further testified that, when he asked Gamble to provide proof of insurance, Gamble told the deputy that he was going to text his wife for a copy of the current insurance. Gamble initially told the deputy that he had purchased the car from D.S., who was not the registered owner, and that he was doing some work for D.S. But the deputy testified that once he informed Gamble that he was going to conduct an inventory search of the car, Gamble stated that he did not own the car and claimed that the car belonged to D.S. The deputy further testified that Gamble claimed that he received methamphetamine as payment for work done for D.S. But the deputy could not recall whether Gamble stated that he received the methamphetamine found in the back seat of the car as payment. According to the deputy,

¹ The district court also concluded that the expansion of the traffic stop was lawful based on the officer’s testimony that Gamble was unable to provide a driver’s license or proof of insurance when asked and the officer subsequently learning that Gamble’s driver’s license was revoked.

Gamble also admitted that he “was or had been high” and that he had used methamphetamine the previous night.

The deputy also testified about items that he found during the inventory search of the car. In the back seat of the car, the deputy found a sunglasses case containing a “large amount of methamphetamine.” The deputy also found a pipe that he believed was used to smoke methamphetamine, a bundle of unused plastic baggies, two small baggies with a “crystal-like substance residue,” and a few dollar bills with a “crystal-like substance.” On the floorboard of the back seat, the deputy found a bag containing suspected marijuana pipes. And on the floorboard of the front passenger seat, the deputy found a small spoon with white residue, torch lighters, and a scale.

The BCA forensic scientist testified that the sunglasses case contained a bag with “slightly more than 27 grams” of methamphetamine. The state offered, and the district court received, a report generated by the forensic scientist, which confirmed the substance was methamphetamine.

The state called the task-force agent to testify to the typical conduct of an individual who possesses drugs for personal use as compared to those who possess drugs for sale. The agent testified that a dealer will typically possess a larger amount of drugs than a person who only intends to use drugs for personal use. The agent testified that 27 grams of methamphetamine is “significantly higher” than what he typically sees possessed by a standard user for personal use, which is typically “under ten grams.” The agent also testified that a common method of ingesting methamphetamine is to snort it through a

dollar bill. The agent further testified that individuals who deal methamphetamine typically divide larger amounts into small baggies using spoons.

The state also offered, and the district court received, several exhibits into the record. These exhibits included the items found by the deputy during the inventory search of the car: specifically, the methamphetamine that led to the arrest; six unused, small plastic baggies; two used, small plastic baggies; the sunglasses case; and several items that field-tested positive for methamphetamine, including dollar bills, a pipe, a spoon, and a scale. Photographs of these items taken at the time of the inventory search were also received into evidence.²

At the conclusion of the presentation of evidence, Gamble moved for a directed verdict on all three charges. Following arguments from the parties, the district court granted Gamble's motion for a directed verdict for the charge of driving while impaired. The district court, however, denied Gamble's motion for the other charges. The district court determined that, based on the evidence at trial, the jury could find that Gamble "possessed the methamphetamine and that he possessed the methamphetamine with intent to sell." The district court reasoned that Gamble's evasive conduct, his admission that he received methamphetamine as payment, and his conflicting statements regarding his ownership of the car provided a sufficient basis for a jury to find him guilty of possession of the methamphetamine. The district court further noted the other items found with the drugs that are consistent with the sale of drugs, including the unused plastic baggies, a

² The parties also stipulated that the registered owner of the car driven by Gamble sold the car to D.S. and that the registered owner left no possessions in the car.

spoon, and a scale. The district court also reasoned that Gamble's statements that he owned and obtained insurance for the car, as well as the fact that Gamble was alone in the car when the deputy stopped him, eliminated the hypothesis that the drugs belonged to someone else.

The jury returned a verdict of guilty on the charges of first-degree sale of a controlled substance and second-degree possession of a controlled substance. The district court entered judgment of conviction on the first-degree-sale charge and dismissed the second-degree-possession charge as a lesser included offense. The district court subsequently sentenced Gamble to 90 months' imprisonment.

Postconviction Proceedings

In April 2024, Gamble filed a petition for postconviction relief. Gamble argued that his conviction and sentence should be reversed because law enforcement did not have reasonable articulable suspicion to initiate the traffic stop and the evidence was insufficient to sustain his conviction of first-degree sale of a controlled substance. In a memorandum in support of his petition, Gamble argued that the fact that he nervously looked away from the deputy, drove a car registered to someone else, and drove the car evasively did not amount to reasonable articulable suspicion. Gamble also argued that the welfare check could not justify the seizure. Second, Gamble argued the evidence was insufficient to support his conviction because, based on the circumstances proved, there was a rational hypothesis that Gamble intended the drugs for personal use, rather than for sale. Gamble did not seek an evidentiary hearing on his petition for postconviction relief. Instead, Gamble specifically stated in his petition that "[n]o evidentiary hearing [was] requested"

because “[t]he record provide[d] sufficient evidence for [the district court] to make its decision.”

The state asked the district court to deny the petition, arguing that the totality of the circumstances provided the reasonable articulable suspicion necessary to initiate a traffic stop. The state also asserted, for the first time, that Gamble committed a traffic violation when he initially stopped his car prior to the traffic stop because he was obstructing traffic. With regard to the sufficiency of the evidence, the state responded that Gamble’s asserted hypothesis was not reasonable in light of the circumstances proved.

The district court denied Gamble’s motion for postconviction relief. In doing so, the district court incorporated its analysis in its order denying Gamble’s motion to suppress and its analysis from the bench denying Gamble’s motion for a directed verdict.

Gamble appeals.

DECISION

A person convicted of a crime may seek postconviction relief by filing a petition alleging that the conviction “violated the person’s rights under the Constitution or laws of the United States or of the state.” Minn. Stat. § 590.01, subd. 1(1) (2022). We review the denial of a petition for postconviction relief for an abuse of discretion. *Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020). “A district court abuses its discretion when it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.” *Martin v. State*, 969 N.W.2d 361, 363 (Minn. 2022) (quotation omitted).

Gamble argues that the district court misapplied the law when it determined that reasonable articulable suspicion supported the traffic stop. He also argues the district court abused its discretion when it concluded that the evidence was sufficient to convict Gamble of first-degree sale of controlled substances. We consider each argument in turn and conclude that neither is availing.

I. The district court did not err when it determined that law enforcement had reasonable articulable suspicion to initiate a traffic stop of Gamble.

The United States and Minnesota Constitutions protect the people from unreasonable searches and seizures of “their persons, houses, papers, and effects.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. The Minnesota supreme court has held that law enforcement may, without a warrant, “temporarily seize a person to investigate that person for criminal wrongdoing” if law enforcement has reasonable, articulable suspicion that the person is engaged in criminal activity. *State v. Diede*, 795 N.W.2d 836, 842-43 (Minn. 2011) (quotation omitted). “[T]he bar for reasonable suspicion is low.” *State v. Taylor*, 965 N.W.2d 747, 758 (Minn. 2021). But “[r]easonable suspicion must be ‘particularized’ and based on ‘specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.’” *Id.* at 752 (quoting *Terry v. Ohio*, 392 U.S. 1, 21 (1968)). Put another way, law enforcement “must be able to articulate more than an inchoate and unparticularized suspicion or hunch of criminal activity.” *Illinois v. Wardlow*, 528 U.S. 119, 123-24 (2000) (quotations omitted); *see also Taylor*, 965 N.W.2d at 752 (stating that reasonable articulable suspicion “requires more than a mere hunch” (quotation omitted)).

Law enforcement may seize an individual by means of a traffic stop if they have reasonable articulable suspicion of criminal activity at its inception. *State v. Askerooth*, 681 N.W.2d 353, 363-64 (Minn. 2004). And law enforcement may expand a traffic stop beyond its original purpose but “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*.” *Taylor*, 965 N.W.2d at 752 (quotation omitted). “Headlong flight . . . is the consummate act of evasion” and “nervous, evasive behavior is a pertinent factor in determining reasonable suspicion.” *Wardlow*, 528 U.S. at 124; *see also State v. Johnson*, 444 N.W.2d 824, 827 (Minn. 1989) (stating “if the driver’s conduct is such that the officer reasonably infers that the driver is deliberately trying to evade the officer and if, as a result, a reasonable police officer would suspect the driver of criminal activity, then the officer may stop the driver”). Evasive conduct is particularly pertinent when it can be connected to some other factor that contributes to law enforcement’s reasonable articulable suspicion. *See Wardlow*, 528 U.S. at 124 (connecting evasive conduct to being present in a high-crime area).

Gamble argues that the district court abused its discretion in its order denying postconviction relief when it concluded that there was reasonable articulable suspicion to initiate a traffic stop. Gamble contends that the circumstances that led the deputy to stop him after he pulled over briefly on the gravel road and then drove away do “not add up to reasonable [articulable] suspicion.” The state responds that the totality of the circumstances—starting from when the deputy first saw Gamble to when Gamble drove away abruptly—establish the reasonable articulable suspicion necessary to stop Gamble.

We review the denial of postconviction relief for an abuse of discretion, *Peltier*, 946 N.W.2d at 372, but whether the undisputed facts provide law enforcement with reasonable articulable suspicion is a legal determination that we review de novo. *See State v. Garding*, 12 N.W.3d 697, 703 (Minn. 2024) (stating that on a motion to suppress, appellate courts “review the district court’s factual findings for clear error and the district court’s legal determination that an officer had reasonable, articulable suspicion de novo” (quotation omitted)). When considering whether there is reasonable articulable suspicion to conduct a stop, we consider “the totality of the circumstances and acknowledge that trained law enforcement officers are permitted to make inferences and deductions that would be beyond the competence of an untrained person.” *State v. Richardson*, 622 N.W.2d 823, 825 (Minn. 2001).

Based on the totality of the circumstances, we conclude that the deputy testified to “specific, articulable facts” that provided the deputy with “a particularized and objective basis for suspecting [Gamble] of criminal activity.” *Diede*, 795 N.W.2d at 842-43 (quotations omitted). These facts include that: Gamble quickly looked away from the deputy when they first made eye contact; shortly thereafter the deputy began following Gamble who then “immediately” pulled off the highway and onto a gravel road; and after turning onto the gravel road, Gamble pulled over and then abruptly drove away from the deputy. These facts are relevant to a reasonable-suspicion determination. *See Wardlow*, 528 U.S. at 124 (“[N]ervous, evasive behavior is a pertinent factor in determining reasonable suspicion.”); *see also Johnson*, 444 N.W.2d at 827 (concluding that there was reasonable articulable suspicion based on the defendant’s driving conduct). Considering

Gamble's evasive conduct together with the fact that Gamble was driving a car not registered to him, there are specific facts articulated by the deputy to support his suspicion that Gamble was engaged in criminal activity. *See Diede*, 735 N.W.2d at 842-43.

Gamble argues that these facts do not amount to reasonable articulable suspicion. But in making this argument, Gamble addresses the facts in isolation rather than considering them together under the totality of the circumstances. *See Richardson*, 622 N.W.2d at 825 (requiring a consideration of the totality of the circumstances when determining the presence of reasonable articulable suspicion). Gamble begins by arguing that "[n]ervousness at seeing police is not enough to justify reasonable suspicion." The record reflects, however, that the deputy did not base the traffic stop solely on Gamble's nervousness. He also considered Gamble's evasive driving and the fact that Gamble was driving a car that was not registered to him. Gamble contends it is "not suspicious" that he was driving a car registered to someone else because it is "commonplace" for people to permit others to drive their car. This argument is not persuasive because conduct that is commonplace and lawful can still be considered suspicious, particularly when viewed in conjunction with evasive conduct. *See Wardlow*, 528 U.S. at 124-25 (holding that being present in a high-crime area *and* evasive conduct justified an investigative stop). Finally, Gamble argues that his driving conduct was not evasive because the deputy did not testify that Gamble was trying to elude him or escape detection. The deputy, however, did testify that he initiated the traffic stop in part "to investigate the suspicious behavior." And when asked what conduct he found to be suspicious, the deputy referenced Gamble's driving along with the other facts described above. Given the totality of the facts testified to by

the deputy, we conclude the deputy had the requisite suspicion to support the traffic stop and that the stop was not based on a mere hunch.³

Consequently, the district court did not abuse its discretion when it denied Gamble's petition for postconviction relief because the deputy had reasonable articulable suspicion to conduct the traffic stop.⁴

II. There was sufficient evidence to convict Gamble of first-degree sale of controlled substances.

Gamble next argues that the district court abused its discretion when it determined that the evidence was sufficient to support his conviction for first-degree sale of a controlled substance. Specifically, Gamble argues that the evidence is insufficient to prove beyond a reasonable doubt that he intended to sell the methamphetamine found in the car. Gamble contends that the evidence supports a reasonable inference that he possessed the drugs for personal use, not for sale. We disagree.

To evaluate the sufficiency of the evidence, “appellate courts carefully examine the record to determine whether the facts 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. Griffin*, 887 N.W.2d 257, 263

³ Gamble also argues that the traffic stop cannot be justified based on a welfare check. However, the record reflects that while the deputy intended to conduct a welfare check, Gamble drove away before he could do so. As a result, no welfare check occurred.

⁴ Because we conclude that Gamble's nervous, evasive conduct while driving a car not registered to him provided the reasonable articulable suspicion necessary for the deputy to conduct a traffic stop, we need not address the state's alternative argument that a traffic violation supported the stop.

(Minn. 2016) (quotation omitted). In doing so, we view the evidence in the light most favorable to the verdict and assume that the fact-finder disbelieved any evidence that conflicts with the verdict. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

When, as here, a defendant's intent was proved by circumstantial evidence, we apply a "heightened two-step test." *State v. McInnis*, 962 N.W.2d 874, 890 (Minn. 2021) (quotation omitted). First, we identify the circumstances proved by the state. *State v. Loveless*, 987 N.W.2d 224, 247 (Minn. 2023). In doing so, we assume that the jury resolved any factual dispute consistent with the verdict. *Id.* Second, "we examine independently the reasonableness of the inferences that might be drawn from the circumstances proved." *Id.* (quotation omitted). This includes inferences inconsistent with guilt. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010). To affirm the conviction, "the circumstances proved must be consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Id.* at 330. But "mere conjecture" is not enough to overturn a conviction. *McInnis*, 962 N.W.2d at 890-91 (quotation omitted). In analyzing the sufficiency of the evidence, "we consider the evidence as a whole and not as discrete and isolated facts." *Loveless*, 987 N.W.2d at 247 (quotation omitted).

First-Degree Sale of Controlled Substances

We begin our analysis of the sufficiency of the evidence by considering the elements of the offense charged. The state charged Gamble with first-degree sale of a controlled substance pursuant to Minnesota Statutes section 152.021, subdivision 1(1). A person is guilty of first-degree sale under this provision if, on one or more occasions within a 90-day period, they "sell[]" at least 17 grams of methamphetamine or cocaine. *Id.* "Sell" is

defined, in relevant part, as “to sell, give away, barter, deliver, exchange, distribute, or dispose of to another, or to manufacture” as well as “to possess with intent to perform” any of the enumerated acts. Minn. Stat. § 152.01, subd. 15a(1), (3) (2020). The state has the burden at trial to prove each element of the offense beyond a reasonable doubt. *State v. Burg*, 648 N.W.2d 673, 677-78 (Minn. 2002).

Circumstances Proved

We next identify the circumstances proved at trial. Assuming the jury resolved any fact disputes in a manner consistent with the verdict, the circumstances proved at trial are as follows. The deputy found a sunglasses case containing a plastic bag with 27 grams of methamphetamine in the backseat of the car that Gamble was driving. Found with the sunglasses case was a bundle of six unused, small plastic baggies. In addition, there were two small plastic baggies containing a crystal-like substance. The deputy also found a scale and a spoon in the car. The weighing surface of the scale field-tested positive for methamphetamine, as did the spoon. Dollar bills and a pipe, which field-tested positive for methamphetamine, were also found in the car, along with a number of suspected marijuana pipes.

The circumstances proved also include that drug dealers typically carry a larger quantity of drugs than individuals who possess drugs only for personal use, and that they typically divide larger amounts into small baggies using spoons. A typical user will usually carry less than ten grams of methamphetamine at a time, and 27 grams is “significantly higher” than the amount a standard user would carry for personal use. Instead, a typical user will buy drugs as needed. Snorting methamphetamine through rolled up dollar bills

is a method of ingesting it. Finally, the circumstances proved include that Gamble admitted to using methamphetamine recently and to receiving methamphetamine as payment.

Inferences Drawn from the Circumstances Proved

Finally, we consider the reasonable inferences that can be drawn from the circumstances proved “to 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). “Intent is an inference drawn by the jury from the totality of circumstances.” *State v. Raymond*, 440 N.W.2d 425, 426 (Minn. 1989).

Gamble concedes, and we agree, that the circumstances proved are consistent with guilt. Gamble’s intent to sell methamphetamine can be drawn from the following circumstances proved. The deputy found 27 grams of methamphetamine in the car that Gamble was driving. This amount of methamphetamine is “significantly higher” than the amount a typical user would possess for personal use at one time. A typical user possesses less than ten grams of methamphetamine at a time. The large quantity of drugs that Gamble had in the car supports an inference that he possessed the drugs with intent to sell them. *See id.* (stating that intent is generally proved circumstantially based on the totality of the circumstances). In addition, the deputy also found paraphernalia in the car that could reasonably support an inference of intent to sell, including a scale, a spoon, and unused plastic baggies. And, while there is also evidence that Gamble used methamphetamine, evidence of use is not inconsistent with an intent to sell. Therefore, the circumstances proved are consistent with that of guilt.

Gamble argues that, while the circumstances proved are consistent with that of guilt, they also support the hypothesis that he did not intend to sell the drugs, but rather he intended to use the drugs for personal consumption. To support this argument, Gamble points to his admitted use, his claim that he received methamphetamine as payment for work he completed, and the dollar bills with methamphetamine residue. Gamble also argues that the spoon and plastic baggies support the hypothesis that he intended to use, not sell, the drugs. The spoon, Gamble argues, could be used to facilitate smoking the drugs. Regarding the baggies, he points to evidence that some of the baggies had residue, suggesting that the baggies were not intended to facilitate the sale of drugs but instead that they once contained drugs and were emptied into a larger bag. Gamble further argues that because he received methamphetamine as payment for work, a jury could conclude that the scale was used to weigh the drugs that he received rather than to weigh out amounts for sale. And Gamble contends that the absence of “notebooks, ledgers, or cutting/manufacturing agents”—that one would expect with a sale operation—support the hypothesis that he intended to use, rather than sell, the drugs.

Gamble’s alternative hypothesis, however, does not consider the totality of the circumstances proved. *Palmer*, 803 N.W.2d at 733. While there is evidence that Gamble was a user of methamphetamine, Gamble does not reconcile the 27 grams of methamphetamine found in his possession with the circumstance proved that 27 grams is significantly more methamphetamine than a typical user would carry at one time for personal use. Gamble contends that the circumstances proved support that he received the drugs as payment for work he completed. But the circumstances proved do not establish

that he received *the drugs at issue* as payment. And because the circumstances proved do not establish the drugs at issue were received as payment, they also do not support his related contention that the scale was used to weigh the drugs when he received them. Insofar as Gamble argues that it could be inferred that the scale was used to weigh methamphetamine that he received as payment, this is not inconsistent with guilt, because the scale could be used both to weigh drugs when he received them *and* to facilitate their sale. Further, while two of the small plastic baggies contained methamphetamine residue, six of the baggies did not and were unused. Finally, the absence of “notebooks, ledgers, or cutting/manufacturing agents” does not support Gamble’s proposed inference, because “the absence of evidence in the record regarding a certain circumstance does not constitute a circumstance proved.” *State v. German*, 929 N.W.2d 466, 473-74 (Minn. App. 2019).

In sum, Gamble’s argument that the methamphetamine in the car was solely for his personal use is not a rational alternative hypothesis. Considering the totality of the circumstances proved, we conclude there is no reasonable inference other than guilt. The district court did not abuse its discretion when it concluded there was sufficient evidence at trial to convict Gamble of the offense of first-degree sale of a controlled substance.

Affirmed.