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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0075**

Lorenzo Thomas Sims, Jr., petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed January 13, 2009
Affirmed
Lansing, Judge**

Hennepin County District Court
File No. 03-065307

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Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, C-2000 Government Center, 300 South Sixth Street, Minneapolis, MN 55487 (for respondent)

Considered and decided by Lansing, Presiding Judge; Klaphake, Judge; and Worke, Judge.

UNPUBLISHED OPINION

LANSING, Judge

In an appeal from the denial of his petition for postconviction relief, Lorenzo Sims challenges the sufficiency of the evidence to support his first-degree burglary conviction. We conclude that the evidence supports the jury's verdict and that the postconviction court did not abuse its discretion by denying the petition for relief. We affirm.

F A C T S

A jury convicted Lorenzo Sims of two counts of first-degree burglary—for entering a dwelling without consent and for possessing a dangerous weapon while inside the building. Sims did not directly appeal his conviction but brought a petition for postconviction relief. After considering the petition on the merits, the district court denied Sims's claim of insufficient evidence but vacated one conviction because it arose from the same behavioral incident and merged with the more serious conviction at sentencing. Sims's postconviction appeal is therefore limited to the denial of relief for insufficiency of the evidence to support his conviction.

The state presented evidence at trial that TC, asleep in the bedroom of her duplex apartment at about 3:30 a.m. on August 26, 2003, was awakened by the sound of her ringing doorbell, but she did not answer it. Moments later, she heard someone inside the apartment, trying to open her locked bedroom door. A minute later, someone knocked on her bedroom window. TC looked outside and saw a person standing a few feet away in the dark. She rapped on the glass. The person pointed and waved at her, and she immediately called the police.

When a police officer arrived, he found no signs of forced entry but noticed that the screens on both bedroom windows had been removed, and one was lying on the ground. The officer saw a kitchen knife lying there as well and a fresh, wet substance on a window-well cover under TC's bedroom window. The crime-scene unit gathered the physical evidence and collected latent fingerprints.

TC shared the two-bedroom apartment with AEH, who was not at home at the time of the incident. When AEH returned to the apartment, she noticed that some bedroom furniture had been moved, pictures had been removed from a closed drawer, and leaves were on her bed. TC forwarded this information to police, who then returned to the apartment to collect any additional physical evidence. At the apartment, a sergeant showed TC a picture of the kitchen knife, which was among the previously collected evidence. TC identified the knife as part of a set that she owned and kept in the apartment.

Police arrested Sims, based on information gathered in collaboration with another police department. The state charged Sims with two counts of first-degree burglary. At trial, both TC and AEH testified that the screens had been on their windows before August 26 and that they kept the kitchen knife in the apartment's kitchen and did not take it outside. TC testified that she habitually secured the deadbolt of her front door before she went to sleep, but the deadbolt was not in place when police arrived. The state argued that this indicated that Sims left the apartment through the front door rather than the window. AEH testified that she knew where things were kept in her room. She also said that the lock on her bedroom window was not working properly and failed to slide

into a locked position. The fingerprint expert found Sims's fingerprints on both bedroom windows but not on the knife, and the DNA expert determined that the substance under TC's window was semen, which matched Sims's DNA. Sims elected not to testify. On this evidence, the jury found Sims guilty of both first-degree burglary counts.

D E C I S I O N

On appeal from the denial of postconviction relief, we review the district court's decision under an abuse-of-discretion standard. *State v. Bliss*, 457 N.W.2d 385, 391 (Minn. 1990). We examine whether sufficient evidence supports the district court's findings, and we review the issues of law de novo. *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007).

Sims challenges the sufficiency of the evidence to prove that he entered TC's apartment or that, while inside the building, he possessed a dangerous weapon. *See* Minn. Stat. § 609.582, subd. 1(b) (2002) (defining first-degree burglary and including elements of entering building without consent and possessing dangerous weapon while in building). In a challenge to the sufficiency of the evidence, we ascertain "whether the jury could reasonably find the defendant guilty given the facts in evidence and the legitimate inferences which could be drawn from those facts." *State v. Miles*, 585 N.W.2d 368, 372 (Minn. 1998). Circumstantial evidence is entitled to "as much weight as other kinds of evidence." *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). Juries can best evaluate the crime's circumstantial evidence and determine "the credibility and weight" to give to witnesses' testimony. *State v. Bias*, 419 N.W.2d 480, 484 (Minn. 1988). To sustain a conviction based solely on circumstantial evidence, the reasonable

inferences based on all of the evidence must lead directly to the defendant's guilt and exclude "any rational hypothesis except that of his guilt." *State v. Anderson*, 379 N.W.2d 70, 75 (Minn. 1985).

The state's evidence supports the jury's verdict that Sims entered the apartment and possessed a dangerous weapon while inside the apartment. First, immediately after the incident, police found a fresh semen sample on the window-well cover under TC's window, fingerprints on both bedroom windows, and a kitchen knife from TC's apartment near the window outside the apartment. The semen sample matched Sims's DNA, and the fingerprints on both bedroom windows matched Sims's fingerprints. Second, TC and AEH testified that their windows had screens before August 26 and that they had never taken their kitchen knife outside their apartment. TC also testified that, at the time of the incident, she heard someone outside her bedroom door, and AEH testified that items had been moved in her room and that, because a lock on one of her bedroom windows was not working properly, that window had not been securely locked. Finally, the state posited that Sims's motive was to commit criminal sexual misconduct and that he took the knife after gaining entry into the apartment. *See Webb*, 440 N.W.2d at 431 (noting that motive provides assistance for jury to form inferences from circumstantial evidence).

Although the jury could have accepted Sims's argument that he never entered the apartment, never took the knife, and peered into TC's window on some other night, the jury weighed the evidence, made its credibility determinations, and found Sims guilty. *See Bias*, 419 N.W.2d at 484 (noting jury's duty to evaluate credibility and weight of

witnesses' testimony); *State v. Bakken*, 604 N.W.2d 106, 111 (Minn. App. 2000) (noting that jury has prerogative to determine evidence's weight and credibility), *review denied* (Minn. Feb. 24, 2000). Sims's theory that he could have peered into the window on another night strains credibility. *See State v. Scanlon*, 719 N.W.2d 674, 687 (Minn. 2006) (noting that theory of someone else having committed crime, despite evidence placing defendant at scene, strained rational-hypothesis principle). Because the reasonable inferences based on all of the evidence are inconsistent with any other rational hypothesis except Sims's guilt, we conclude that the evidence was sufficient to prove that Sims entered the apartment without consent and possessed a dangerous weapon while inside the apartment. The evidence sufficiently supports the jury's verdict, and the postconviction court did not abuse its discretion by denying Sims's petition.

Affirmed.