

No. 1-10-0192

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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<i>In re</i> MARCOS H., A MINOR	)	Appeal from the
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
	)	Cook County.
Petitioner-Appellee,	)	
	)	
v.	)	No. 09 JD 3798
	)	
MARCOS H. a minor,	)	Honorable
	)	Lori M. Wolfson,
Respondent-Appellant).	)	Judge Presiding.

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JUSTICE KARNEZIS delivered the judgment of the court.  
Presiding Justice Cunningham and Justice Connors concurred in the judgment.

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**ORDER**

¶ 1 *HELD:* Testimony of company's property management employee that property which was subject of criminal damage was owned by company was sufficient to establish element of ownership by another for criminal damage to property, even though the witness was not employed by the company until eight days after the damage was accomplished.

¶ 2 Following a December 2009 bench trial, respondent Marcos H. was found guilty of criminal damage to property, adjudicated delinquent, and placed on probation for one year, with

50 hours of community service. On appeal respondent contends that the State failed to prove the element of ownership of the property by another.

¶ 3 At the adjudicatory hearing the State's evidence established that on August 20, 2009, at about 2:45 a.m., respondent, who was then 16 years old, was observed by a police sergeant spray painting graffiti on the wall of a building located at 180 West Washington Street in Chicago. Respondent and two other individuals who had also been seen spray painting were arrested as they hid behind an air conditioning unit on the roof of an adjacent building. Cans of spray paint were found nearby and respondent was observed to have paint residue on his fingers and to smell of paint.

¶ 4 Dominic Soltero testified without defense objection that he worked in property management for Wells Street Companies which, on August 20, 2009, owned the property at 180 West Washington Street. The graffiti was removed by a Wells Street engineer, who was paid by Soltero. Soltero also testified that respondent did not have permission to spray graffiti on the building. On cross examination Soltero testified that he had begun working for Wells Street Companies on August 28, 2009. After his testimony was completed, the State rested, and respondent moved for a directed finding on the ground that Soltero did not have "standing" to testify that respondent lacked permission to paint graffiti on the building on August 20, 2009, which was before Soltero began working for Wells Street Companies. The defense had rested, and the court gave both parties several weeks to research the issue. When arguments recommenced, respondent argued that Soltero had no personal knowledge of who owned the building at a time when he was not yet working for the corporate owner. The trial court found that Soltero was qualified to testify to this and further found that respondent's actions in hiding from the police also tended to establish that he did not have the authority to spray graffiti on the

building. Respondent was convicted of criminal damage to property, adjudicated a delinquent and sentenced to probation. He now brings this appeal.

¶ 5 Although respondent contends that our standard of review should be *de novo*, we are in fact concerned with what inferences can be drawn from the evidence in evaluating respondent's challenge to the sufficiency of that evidence. Accordingly we must determine whether any reasonable trier of fact, when evaluating this evidence in the light most favorable to the State, would find the respondent guilty beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 278 (2004). We will not set aside respondent's conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of respondent's guilt. *People v. Cox*, 195 Ill. 2d 378, 387 (2001). It is for the trier of fact to determine witness credibility, weigh the testimony, and draw reasonable inferences from all of the evidence. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001).

¶ 6 A person commits criminal damage to property when he knowingly damages the property of another without that person's consent. 720 ILCS 5/21-1(1)(a) (West 2008). Respondent challenges the sufficiency of the State's evidence that the building in question belonged to "another." But the "of another" element of crimes such as criminal damage to property, arson, and burglary has been liberally construed in Illinois. See *People v. Tate*, 87 Ill. 2d 134, 149 (1981) and cases cited therein. In *Tate*, it was found that a store security guard had a sufficient possessory interest in the store to supply the "of another" element of criminal damage to property by testifying that defendant had damaged the store's door. *Tate*, 87 Ill. 2d 134, 150. In *People v. Thompson*, 327 Ill. App. 3d 1061 (2002), defendant was charged with unlawful delivery of cocaine within 1,000 feet of residential property owned, operated, or managed by a public housing agency (720 ILCS 570/401(d), 407(b)(2) (West 1998)). *Thompson*, 327 Ill. App. 3d at 1062. The reviewing court held that for purposes of establishing that ownership by a housing

agency, it was sufficient that the agency's security director testified to that fact, because such testimony could be deemed reliable by virtue of the director's position within the agency. *Thompson*, 327 Ill. App. 3d at 1064-1067. Here, Dominic Soltero's position as a property management employee for Wells Street Companies established his reliability because someone in that position would need to know who owned the property. Respondent notes that Soltero was not so employed at the time of this incident, but that was only eight days earlier. In this respect this case is distinguishable from *People v. Stewart*, 406 Ill. App. 3d 518 (2010), upon which respondent relies. In *Stewart* the reviewing court reversed defendant's arson conviction based upon the State's failure to prove the "of another" element by means of a death certificate listing the deceased as having lived at the residence in question eight months prior to the fire which defendant was charged with setting. *Stewart*, 406 Ill. App. 3d at 528-531. But here there was only a gap of eight days and the person in question was a property management employee, not merely an occupant. It should also be noted that there was no question that the property that respondent was observed defacing did not belong to him. So, his argument that Soltero's testimony did not prove that he defaced the property "of another" is meritless. Under these circumstances we find that the trial court was justified in drawing the reasonable inference that Soltero was qualified to testify to the ownership of the building just eight days before he began work for the company.

¶ 7 For the reasons set forth in this order, we affirm respondent's adjudication of delinquency and sentence.

¶ 8 Affirmed.