

NOTICE
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2011 IL App (4th) 100407-U

Filed 11/21/11

NO. 4-10-0407

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
SEAN D. ELLIS,)	No. 09CF176
Defendant-Appellant.)	
)	Honorable
)	Thomas J. Difanis,
)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.
Presiding Justice Knecht and Justice McCullough concur in the judgment.

ORDER

¶ 1 *Held:* The court affirmed the trial court's judgment finding the State introduced sufficient evidence to prove defendant guilty of unlawful possession of a stolen or converted motor vehicle beyond a reasonable doubt.

¶ 2 In October 2009, a jury convicted defendant, Sean D. Ellis, of unlawful possession of a stolen or converted motor vehicle (625 ILCS 5/4-103(a)(1) (West 2008)), and the trial court sentenced him to 25 years' imprisonment. Defendant appeals, arguing the State failed to prove him guilty beyond a reasonable doubt. We disagree and affirm.

¶ 3 I. ANALYSIS

¶ 4 In March 2009, the State charged defendant by indictment with unlawful possession of a stolen or converted motor vehicle (625 ILCS 5/4-103(a)(1) (West 2008)), a Class 2 felony subject to Class X sentencing based on defendant's criminal history. See 730 ILCS 5/5-

5-3(c)(8) (West 2008). The indictment alleged in November 2008, defendant "possessed a 2001 Mitsubishi Galant *** knowing it to have been stolen or converted." Defendant pleaded not guilty, and the matter proceeded to jury trial. The evidence at trial showed the following, in pertinent part.

¶ 5 The State's first witness Bryan Parr, the sales manager at a local car dealership, testified on November 24, 2008, he arrived at the dealership and found one of the windows in the used car building broken. Parr called the police and did not enter the building until officers arrived. Upon entering the building, Parr saw signs someone had gone through several drawers and cabinets. After taking inventory, Parr determined no cars were missing from the lot. Parr later realized a 2001 Mitsubishi Galant was missing and called the police again. Officers returned to the scene.

¶ 6 Angel Rush, the missing vehicle's owner, recently purchased a car from the dealership. As a result, Rush was attempting to sell her 2001 Mitsubishi Galant, and the dealership agreed to help by offering it for sale on its lot. Rush stated she did not know defendant and did not give him permission to take her car.

¶ 7 Officer Jeff Thomas of the Champaign police department (CPD) responded to Parr's first call on November 24, 2008. When he arrived at the dealership, Thomas saw a broken window in the used car building. Thomas entered the building and gathered evidence, including fingerprints. The fingerprints were never linked to defendant.

¶ 8 Officer Jeremiah Canales of the CPD responded to Parr's second call on November 24, 2008. When Canales arrived on the scene, Parr informed him the 2001 Mitsubishi Galant was missing. Canales alerted patrol officers the car was missing and entered a

description of the vehicle into the system.

¶ 9 Officer Thomas Petrilli of the CPD testified on November 29, 2008, his supervisor contacted him and informed him the missing 2001 Mitsubishi Galant was parked in the driveway of a local residence. Petrilli proceeded to the car's location and conducted surveillance of the area for a short time. Petrilli then knocked on the residence's front door, and a female resident, whom Petrilli knew as Falana, answered. After speaking with Falana, Petrilli made contact with defendant.

¶ 10 Petrilli testified defendant initially identified himself as Sean Williams and invited him into the residence. According to Petrilli, defendant stated he rented the car from his brother-in-law for \$90 and had been driving it for approximately five days. Petrilli informed defendant the vehicle had been stolen from a local dealership and claimed defendant responded that he "would not be surprised if Lafayette had stolen the vehicle prior to giving it to him." Petrilli then requested the keys to the stolen vehicle, and defendant handed them over.

¶ 11 On cross-examination, Petrilli testified defendant did not have the keys on his person but retrieved them from within the residence. Petrilli was unsure where defendant retrieved the keys from but did not believe defendant left the living room. Petrilli had the car towed and informed defendant his report would be forwarded to the State's Attorney's office. Defendant was not arrested at that time.

¶ 12 After Petrilli's testimony, the State rested.

¶ 13 Defendant testified the residence in question was his girlfriend's house, and he did not live there, though he occasionally stayed the night. According to defendant, Petrilli's testimony was completely fabricated. Defendant testified he did not know anything about the

2001 Mitsubishi Galant, and he had never been inside the car. He claimed he never told Petrilli he rented the car from his brother-in-law or indicated his brother-in-law might have stolen it. Defendant further claimed his girlfriend had the keys to the car and handed them to Petrilli, rather than him. In addition, defendant testified he did not tell Petrilli his name was Sean Williams. During direct examination, defense counsel established defendant was convicted of obstructing justice in Champaign County case No. 07-CF-1013.

¶ 14 Following closing arguments, the jury found defendant guilty of unlawful possession of a stolen or converted motor vehicle, and the trial court set the matter for sentencing. Prior to his sentencing hearing, defendant filed a motion for new trial. In October 2009, the court denied defendant's motion and sentenced him to 25 years' imprisonment.

¶ 15 In November 2009, defendant filed a *pro se* document with the trial court, claiming ineffective assistance of retained counsel. The court appointed counsel to represent defendant. In April 2010, appointed counsel filed a motion for new trial or reduction in sentence. In May 2010, the court denied defendant's motion.

¶ 16 This appeal followed.

¶ 17 **II. ANALYSIS**

¶ 18 On appeal, defendant argues the State failed to introduce sufficient evidence to convict him of unlawful possession of a stolen or converted motor vehicle. Specifically, defendant argues the State failed to prove he knew the car was stolen or converted. We disagree.

¶ 19 When presented with a challenge to the sufficiency of the evidence, the question on review is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a

reasonable doubt." *People v. Smith*, 185 Ill. 2d 532, 541, 708 N.E.2d 365, 369 (1999). The reviewing court's role is not to retry the defendant. *Id.* Issues of witness credibility are to be resolved by the trier of fact and accorded great weight by the reviewing court. *Id.* at 542, 708 N.E.2d at 370.

¶ 20 The burden is on the State to prove all elements of a crime beyond a reasonable doubt, and defendant is not required to offer any evidence at all. *People v. Phillips*, 127 Ill. 2d 499, 527, 538 N.E.2d 500, 511 (1989). "In order for a person to be convicted of possession of a stolen motor vehicle, the State must prove beyond a reasonable doubt that defendant possessed the vehicle, that he was not entitled to possession of the vehicle, and that he knew that the vehicle was stolen." *People v. Anderson*, 188 Ill. 2d 384, 389, 721 N.E.2d 1121, 1124, (1999). Where possession of a stolen vehicle can be shown, the defendant's knowledge it was stolen can be inferred from the surrounding circumstances. *People v. Kaye*, 264 Ill. App. 3d 369, 383, 636 N.E.2d 882, 892 (1994). Further, "[t]he trier of fact need not accept the defendant's explanation, but may consider its probability or impossibility in light of the surrounding circumstances." *Id.*

¶ 21 Here, Petrilli testified defendant admitted driving the car, had the keys in his possession, gave a false name, and stated he would not be surprised if the car was stolen prior to his "renting it" from his brother-in-law. Testimony further established the car's owner did not know defendant and did not give him permission to drive the car. Defendant testified Petrilli's testimony was wholly fabricated and he had no connection to the car. Simply put, the jury, as the trier of fact, was not required to accept defendant's testimony as truthful, and it apparently did not. Given defendant's testimony at trial and the fact he was previously convicted of obstructing justice, the jury was entitled to doubt his credibility as a witness. The trier of fact

could reasonably consider defendant's possession and admitted use of the car, find his trial testimony implausible, and infer he knew the car was stolen or converted.

¶ 22

III. CONCLUSION

¶ 23 For the foregoing reasons, we affirm the trial court's judgment. As part of our judgment we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 24 Affirmed.