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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Boone County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 08-CF-580
)	
BRIAN S. FORAL,)	Honorable
)	Fernando L. Engelsma,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Zenoff and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* (1) Defense counsel was not ineffective for failing to move to suppress defendant's confession: there were no grounds for granting such a motion, and because the confession was cumulative its suppression would not have changed the outcome of the trial; (2) the State proved defendant guilty beyond a reasonable doubt of criminal damage to property: a single eyewitness and defendant's confession sufficiently established that defendant did the damage, and a repairman's testimony sufficiently established its value.

¶ 2 After a bench trial, defendant, Brian S. Foral, was convicted of criminal damage to property with a value of more than \$300 but no more than \$10,000, a Class 4 felony (720 ILCS 5/21-1(1)(a), 21-1(e)(2) (West 2008)) and leaving the scene of a motor vehicle accident involving damage to a

vehicle (625 ILCS 5/11-402(a) (West 2008)). He was sentenced to two years' conditional discharge. On appeal, defendant challenges only his conviction of criminal damage to property, contending that (1) his trial counsel was ineffective for failing to move to suppress statements that defendant made to the police; and (2) he was not proved guilty beyond a reasonable doubt. We affirm.

¶ 3 We set out those facts pertinent to the issues on appeal. At trial, Amanda O'Howell testified on direct examination as follows. On December 14, 2008, she lived in a rented unit in Green Farms Townhomes in Belvidere. At about 9 p.m., defendant visited; he left at about 1 a.m. on December 15. At about 4:40 a.m., he returned and entered the apartment. O'Howell and defendant got into an argument. As he went to leave, she shut the door. Defendant turned around and reopened the door "very quickly." The dead bolt "splintered," and several screws fell onto the ground. By that time, a neighbor had called the police. Two or three minutes later, officers arrived. O'Howell reported the damage to Green Farms management; later, the door was fixed "temporarily."

¶ 4 O'Howell testified on cross-examination as follows. Asked by the officers whether she wanted to press charges against defendant, she said no. Before the incident, the apartment door was already damaged. "From where the dead bolt start[ed] to where the door handle lock [was], there was a crack running down that met the two pieces of metal." The damage had been there for a year and had resulted from an attempted break-in. O'Howell identified a defense exhibit as a photograph, taken about a month after December 15, 2008, showing the door after it had been temporarily repaired. She explained that, as a result of defendant's act, the crack ran more deeply into the actual door, making it impossible for the dead bolt to stay in place. After the door was fixed temporarily, O'Howell complained that it was still not safe. Several months later, Daniel Rose, the building's maintenance man, did more work on the door. O'Howell identified another defense exhibit as a

photograph of the door after it was fixed temporarily, with the four screws in place. On redirect examination, O’Howell identified a State exhibit as a photograph of the door as it appeared shortly after the incident.

¶ 5 Robert Kozlowski, a Belvidere police officer, testified as follows. At about 4:41 a.m. on December 15, 2008, he responded to a call about a hit-and-run accident (which eventually led to the traffic charge against defendant), then went to O’Howell’s apartment. When he arrived, O’Howell, who was alone, reported the incident. Kozlowski observed that the door had been forced open, and it appeared that someone had “pushed through with force,” breaking the locking mechanism. The door was “steel covered” and “the cylinder [had been] forced inward.” The door trim had been damaged. Kozlowski saw the dead bolt inside the apartment. At trial, he identified several photographs, which he had taken, of the door as it had appeared when he inspected it.

¶ 6 Daniel Summerfield, another Belvidere police officer, testified as follows. On December 15, 2008, he and Officer Thomas Jones went to O’Howell’s apartment. Defendant was in the doorway and O’Howell was inside. The apartment door was “split down the middle” and the locking mechanism had been broken apart. The police arrested defendant on the traffic charge and took him to the police station. There, defendant admitted that he had damaged the door, although Summerfield was not sure whether defendant had said that he “kicked in” the door.

¶ 7 Jones testified as follows. At about 7:30 a.m. on December 15, 2008, he responded to a call of a stolen vehicle (which the police later ascertained defendant had been driving). He saw three officers outside Green Farms, with defendant confined in a squad car. Rose approached the officers, identified himself, and explained that he was concerned about the damage to an apartment door. He asked the officers to charge defendant. Jones participated in questioning defendant at the police

station. Defendant said that, when O’Howell slammed the door on him, he put his arm or shoulder “into the door,” damaging the door. Defendant denied having kicked the door.

¶ 8 Rose testified on direct examination as follows. On the morning of December 15, 2008, when he drove to work, he saw three police cars parked outside Green Farms, with defendant in the backseat of one car. Rose ascertained why the officers were there, and he inspected the door to O’Howell’s apartment. He saw that the door had been damaged. Rose explained that, when a door is forced open as O’Howell’s door had been, there is damage to the door and to the jamb and there can be damage around the jamb. The cost of replacing a door such as O’Howell’s was “\$150 to \$200 *** or more, depending on the door.” Normally, it would cost “anywhere from two to four hundred dollars” to have the door installed. On Green Farms’ behalf, Rose hired a subcontractor to help him install the new door. Rose identified a State group exhibit as documents generated by the replacement of the door. These documents are not in the record on appeal. Rose testified that the total amount expended on the repair effort was “\$338, I believe. Whatever the total is on that document.” Referring to a document that he had “written up” himself, Rose then testified that the total cost of repair was \$380.16. This included Rose’s pay for the time that he spent on the work.

¶ 9 Rose testified on cross-examination as follows. The new door had cost \$147, and the contractor had cost \$200. On redirect examination, Rose testified that, according to one of the documents in the group exhibit, the total cost of the door, with tax, was \$157.66.

¶ 10 In finding defendant guilty of criminal damage to property, the trial judge explained as follows. O’Howell’s testimony had been credible and was corroborated by defendant’s admission to the police. Rose had testified credibly, and the State had proved that the door had cost Green Farms’ owner \$147 and that the contractor had cost \$200. However, Rose was a salaried employee,

so his time did not count. Nonetheless, the cost of replacing the door exceeded \$300. After the court denied defendant's posttrial motion and sentenced him as noted, he timely appealed.

¶ 11 On appeal, defendant contends first that his trial attorney was ineffective for failing to move to suppress the admission that defendant made to the police after he was arrested. Without much elaboration, defendant asserts that the record shows no strategic reason for counsel's failure and that it is reasonably probable that, had counsel moved to suppress defendant's admission that he had damaged the door, the result of the trial would have been different. We disagree.

¶ 12 To succeed on a claim of ineffective assistance of counsel, a defendant must demonstrate that (1) counsel's performance was objectively unreasonable; and (2) it is reasonably probable that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984); *People v. Evans*, 369 Ill. App. 3d 366, 383 (2006). Because a defendant must satisfy both prongs of the test, we may dispose of an ineffective-assistance argument by rejecting the claim of prejudice without inquiring into whether counsel's performance was unreasonable. *People v. Harris*, 206 Ill. 2d 293, 304 (2002).

¶ 13 Here, defendant has completely failed to show prejudice. We note first that ordinarily a motion to suppress cannot affect the outcome of a trial unless the trial court actually grants it. Yet defendant does not even suggest why the trial court might have granted a motion to suppress his statements. He articulates no grounds, and the record provides none. We note second that, even had the trial court suppressed the statements, it is not reasonably likely that the result of the trial would have been different. Defendant's admission that he had damaged the door was merely cumulative of O'Howell's testimony, which the trial court credited. Defendant's first claim of error fails.

¶ 14 Defendant argues second that he was not proved guilty beyond a reasonable doubt. He asserts that the evidence was insufficient to prove either that he committed criminal damage to property or that the damage exceeded \$300. We disagree.

¶ 15 In considering a challenge to the sufficiency of the evidence, we ask only whether, after viewing all of the evidence in the light most favorable to the State, any rational fact finder could have found the elements of the offense proved beyond a reasonable doubt. *People v. Ward*, 154 Ill. 2d 272, 326 (1992). The trier of fact is responsible for determining the witnesses' credibility, weighing their testimony, and deciding on the reasonable inferences to be drawn from the evidence. *People v. Lamon*, 346 Ill. App. 3d 1082, 1089 (2004).

¶ 16 Defendant essentially asks us to assume the trial court's role and reweigh the evidence. In contending that the evidence did not prove that he damaged the door, he asserts that the State's proof consisted of the testimony of "a single eyewitness who refused to press charges" and his "purported confession." Defendant never explains why this evidence, viewed in the light most favorable to the State, is legally insufficient. O'Howell's refusal to seek charges did not require the trial court to discredit her testimony, which proved that defendant had damaged the door. No authority holds that more than one eyewitness is required to prove an offense. And O'Howell's testimony and the photographs of the damage corroborated defendant's admission to the police.

¶ 17 Defendant's contention that the State failed to prove that the damage exceeded \$300 is equally infirm. He argues only that Rose's testimony was insufficient because he equivocated on the exact amount of damage and because no documents corroborated his testimony. Defendant's argument ignores that the trial court was free to credit Rose, regardless of the documentation (or lack of it) for his testimony. Also, defendant ignores that Rose relied in part on a document that he had

written up himself. Although Rose was not entirely consistent, the trial court could reasonably rely on his testimony that the new door cost \$147 and the subcontractor's services cost \$200. Thus, there was sufficient evidence that the damage exceeded \$300.

¶ 18 For the foregoing reasons, the judgment of the circuit court of Boone County is affirmed.

¶ 19 Affirmed.