2013 IL App (4th) 120263-U

NO. 4-12-0263

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
December 11, 2013
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
WILLIE R. ROBINSON,	)	No. 10CF701
Defendant-Appellant.	)	
	)	Honorable
	)	Timothy J. Steadman,
	)	Judge Presiding.

PRESIDING JUSTICE APPLETON delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: The State presented sufficient circumstantial evidence that when defendant broke into an unoccupied residence, he did so with the intent to commit therein a theft; therefore, his conviction of burglary (720 ILCS 5/19-1(a) (West 2010)) is affirmed.

¶ 2 Defendant, Willie R. Robinson, who is serving a sentence of 25 years' imprisonment for burglary (720 ILCS 5/19-1(a) (West 2010)), appeals from the trial court's judgment. He argues that, as a matter of law, the evidence was insufficient to prove him guilty of burglary. He challenges a single element of that offense: his alleged intent to commit a theft. Looking at the evidence in the light most favorable to the prosecution, we conclude that a rational jury could find that element to be proved beyond a reasonable doubt. Therefore, we affirm the trial court's judgment.

¶ 3 I. BACKGROUND

¶ 4 The jury trial occurred in September 2010. The evidence tended to show the following.

¶ 5 In March 2010, James Wright owned a house in Decatur. The house was unoccupied. It used to belong to his parents, who were deceased. Many of their belongings were still inside the house, including furniture and three televisions.

¶ 6 Wright lived in Kansas City, and his aunt, Eva Sain, had promised him she would check on the house periodically. For that purpose, he gave her the keys to the house in October 2009. Sain drove by the house a few times a week and went inside at least twice a week, always entering through the back door.

¶ 7 The house had a front door and a back door, both of which were fronted by a wrought-iron security door. The security doors could be opened from the inside and outside only with a key. The house had an enclosed back porch, which one entered through a screen door. Blinds hung down over the inside of the screen door so that anyone entering through the screen door would have to push aside the blinds to go through the doorway. A sliding glass door opened from the back porch to a bedroom. On the same wall as the sliding glass door, there was a sash window. This window, which was above the kitchen sink, looked out on the back porch. All the doors normally were kept locked, and a stick inserted in the track of the sliding glass door made it impossible to open.

¶ 8 On March 13, 2010, Sain went by the house and saw the back door was standing open, behind the locked security door. She telephoned the police, and she also telephoned her husband, asking him to bring the house keys.

¶ 9 Police officers entered the house around 5 p.m., after being given the keys. They found the front door, both security doors, and the sliding glass door locked. But the screen door to the back porch was slightly ajar, and it did not appear to have been forced open. Sain did not recall unlocking the screen door, but she thought she might have done so when she last went into the house, two or three days earlier.

¶ 10 A 32-inch television on the back porch was lying on its side. The television would have fit through the screen door. Shards of glass were on the floor of the back porch and in the kitchen sink because someone had broken in through the sash window. A coffee table was knocked over in the living room. Both bedrooms looked as if they had been ransacked. Someone had pulled out the drawers of the dressers and scattered their contents. Things had been tossed out of the closet. According to Sain, the house was tidy the last time she was inside. Nothing appeared to be missing from the house.

¶ 11 Police officers found a bloodstain on a cushion that had been knocked off a chair on the back porch. They also found a smear of blood on the blinds that hung inside the screen door. Sain testified the blood was not there the last time she was in the house. The police had the bloodstain on the blinds scientifically analyzed, and as it turned out, the deoxyribonucleic acid (DNA) had come from defendant. The DNA profile from the blinds matched his DNA profile. Wright never gave him permission to enter the house.

¶ 12 III. ANALYSIS

¶ 13 One of the elements of burglary is that defendant made the unauthorized entry with the intent to commit a theft. See 720 ILCS 5/19-1(a) (West 2010). He contends that the State failed to prove this intent. He observes: "Nothing was taken from inside the house, and a

television on the back porch which could have been carried out the screen door was not taken. Simply put, nothing was stolen, under circumstances where a theft could have been easily accomplished." He cites *People v. Soznowski*, 22 Ill. 2d 540 (1961), and *People v. Ehrich*, 165 Ill. App. 3d 1060 (1988), in which the reviewing courts reversed burglary convictions because an intent to commit a theft was, as a matter of law, unproven. Defendant says: "The common thread in both *Soznowski* and *Ehrich*—as well as the instant case—is proof of an unlawful entry where the defendant subsequently left or tried to leave without taking anything."

¶ 14 In neither *Soznowski* nor *Ehrich*, however, did the defendant ransack the dresser drawers and a closet. For that reason alone, those cases are distinguishable. In *Soznowski*, 22 Ill. 2d at 540, the supreme court remarked: "The evidence discloses no overt act on the part of the defendant, after his entering of the dwelling, directed toward accomplishing his alleged intention of stealing." In the present case, by contrast, there is such an overt act: defendant's act of going through the dresser drawers and the closet, as if he were looking for something. Viewing all the evidence in the light most favorable to the prosecution, we ask whether any rational jury could find, beyond a reasonable doubt, that defendant entered the house with the intent to commit a theft therein. See *People v. Luth*, 335 Ill. App. 3d 175, 178 (2002). The answer is yes. In fact, such an intent is unmistakable from his hectic search of the drawers and the closet. Evidently, he had no interest in a used television; he preferred portable property, *e.g.*, money and jewelry.

¶ 15 III. CONCLUSION

¶ 16 For the foregoing reasons, we affirm the trial court's judgment, and we assess $50 in costs against defendant as costs of this appeal.

¶ 17 Affirmed.