

No. 1-13-0286

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 11 CR 16764
)	
MICHELLE LAWRENCE,)	Honorable
)	Charles P. Burns,
Defendant-Appellant.)	Judge Presiding.

JUSTICE MASON delivered the judgment of the court.
Justices Lavin and Hyman concurred in the judgment.

O R D E R

- ¶ 1 *Held:* We affirm defendant's conviction for theft over her contentions that the evidence was insufficient to convict her.
- ¶ 2 After a bench trial, defendant Michelle Lawrence was convicted of theft of personal property with a value exceeding \$10,000 and less than \$100,000 and sentenced to 14 days in the Cook County Department of Corrections, 30 months of felony probation, and 40 days in the Sheriff's Work Alternative Program. On appeal, Lawrence contests the sufficiency of the

evidence, asserting that the State failed to prove that she was involved in the theft, or in the alternative, that she intended to permanently deprive the owners of their property. We affirm.

¶ 3 Lawrence was the owner and landlord of a single-family, four-story row house at 4143 South Drexel Boulevard in Chicago. Beginning September 1, 2009, Lawrence rented the house to the Garrett family: William, his wife Annissa, and their 17-year-old son. The charges against Lawrence stemmed from the fact that property belonging to the Garretts was removed from the home while they were on vacation and ultimately traced to storage lockers connected to Lawrence.

¶ 4 At trial, Annissa testified that she and William, who was a basketball coach at DePaul University, rented the house from Lawrence from September 1, 2009, until August 31, 2010, paying \$3000 per month. In May 2010, Annissa informed Lawrence that the family wanted to remain in the house for an additional year. The Garretts did not sign a new lease, but continued to live in the home. They also continued to pay rent from September 1, 2010, until July of 2011, and Lawrence cashed their checks. In May of 2011, Annissa informed defendant that they would be moving out on August 31, 2011. At some point, Lawrence notified her that the rent had increased to \$3,250 per month, but Annissa did not agree to the increase and continued to pay \$3,000 per month. Annissa denied ever receiving late notices for unpaid rent or five-day notices from Lawrence. Annissa did not pay the rent for August because Lawrence never repaid the Garretts for repairs they made to the property or paid them the interest owed on their security deposit. Annissa packed up the house during the summer months in anticipation of moving. The family also planned a trip to Europe from August 11 through August 21, 2011.

¶ 5 Annissa further testified that on August 8, 2011, Lawrence notified her that she wanted to have work done on the home from August 10 through August 14. Lawrence came to the home

on the 8th to deliver the notice. During their conversation, Lawrence and Annissa agreed that the Garretts would use their security deposit as their last month's rent. When Lawrence visited, the Garrett's property was already packed up in boxes. Later that day, Annissa texted Lawrence and told her that workers could come on the 10th, but that the family would be away after that and she did not want workmen in the home in their absence. Lawrence returned with several workers on the 10th and went through the entire house taking pictures. When the family left for Europe, the house and garage, which contained their Mercedes Benz, was fully secured and the security system was activated. On August 19 or 20, while the Garretts were out of the country, Annissa received a voicemail from the security company informing her that the security system had been breached.

¶ 6 After the Garretts returned on August 21, Annissa drove to the house, but could not get into the garage because the garage opener did not work. She saw her Mercedes in a lot behind the home and it was "guttled," *i.e.*, the interior was removed including radios and a television. All the outdoor furniture and grills from both decks were also missing. When she could not enter the back of the property, she drove around to the front and saw that a padlock was on the front gate. Annissa called the police and attempted to contact Lawrence by phone and by going to the property across the street where Lawrence lived, but Lawrence did not respond.

¶ 7 On August 31, 2011, after William received a letter from Lawrence that contained the keys to a storage locker, Annissa went to Extra Storage Space, a storage locker facility on Pershing Road in Chicago. Lawrence's letter, dated August 19, was directed to William at his work address at DePaul and informed the Garretts that on August 18, Lawrence found the back door to the house open and most of the Garrett's property gone. Lawrence told the Garretts that she secured the property and placed the remainder of their belongings in the garage. Lawrence

asked that the Garretts notify her of their intent to pay the outstanding rent, and if they wanted the items they left behind returned. Lawrence also sent an e-mail to the Garretts on August 19 stating, "I think it's real funky that you move out, leave the place a wreck, then leave the door open. Then add on to injury not paying your rent. I will be moving your remaining items into the garage."

¶ 8 Annissa, William, her sister-in-law, and an attorney all went to the storage unit where Lawrence indicated the items were being held. When they entered, the storage unit was "full of garbage" like old food and boxes. The storage locker contained some of the Garrett's property. While at the storage facility, Annissa saw Robert Harrison, a man she had seen once before when Lawrence sent him to the house to do some work. Annissa told Harrison that she had paid her rent in full, and then Harrison made a phone call. Harrison left the premises and later returned to the storage facility and told the Garretts where the rest of their property could be located.

¶ 9 On September 2, 2011, Annissa went to another storage facility—Life Storage on State Street in Chicago—because the police wanted her to identify items in three storage lockers. Annissa saw the family's belongings in the lockers. About 75% of the Garrett's property was found in the lockers, but about 25% was never recovered, including her father-in-law's original Harlem Globetrotter jerseys, basketball championship rings, wedding rings, television sets, a pool table, and a theater projection screen. Several of the items that were stored in the lockers were damaged, *i.e.*, broken glass tables, damaged furniture, and a damaged baby grand piano. Annissa assessed the property that she had in her home before the items were removed, and obtained copies of purchases she made with her debit and charge cards. Annissa produced receipts totaling \$128,757.65 or property removed from the house and never recovered.

¶ 10 On cross-examination, Annissa was shown a copy of an estimate for moving services from Aaron Brothers. The document listed Annissa as the shipper, her address on Drexel, and her apparent new address. Annissa denied ever seeing the document before.

¶ 11 Robert Harrison testified that he has known Lawrence for about 10 to 15 years and worked for her for two years as a foreman for her construction company, ML Group. On August 15, 2011, Lawrence, who was upset and crying, told him that her tenants owed her \$12,000 and were going to squat in the house for the rest of the winter. Lawrence asked Harrison if he would get a moving crew together and put the tenant's belongings in storage. She indicated that if the tenants paid the balance, she would return their belongings, but, if not, she would not pay the storage bill and let the storage company auction off the merchandise.

¶ 12 Early on August 17, Harrison met Lawrence at Life Storage, where Lawrence uses several of the storage units as the office for ML Group. Lawrence gave him the keys to two U-Haul trucks, and a garage opener to the Drexel property. Lawrence also told Harrison that she left the back door unlocked so that the movers would have access to the house. Harrison and nine other movers went to the house and proceeded to load the trucks with property. After loading the trucks, Harrison and the moving crew unloaded the Garretts' property into three storage units at Life Storage. Lawrence was there and had her secretary order the workers pizza. The items that would not fit into the storage units were later placed in Lawrence's garage.

¶ 13 The State, without objection, published a video taken by a security camera showing Harrison and the movers placing items on trolleys and moving the trolleys inside the storage facility during the afternoon of August 17, 2011. The process took several hours—all recorded. At one point, a woman dressed in a white short-sleeved shirt with distinctive dark markings, long dark pants and white gym shoes can be seen standing at the door of the loading dock conversing

with the movers. One of the men hands her a piece of paper, which she carefully examines, folds up and keeps. Near the end of the recording, Lawrence, attired in the same clothing as the woman appearing earlier in the video, but with her hair under a hat and shielding her face with a piece of paper, walks toward the dock entrance. A few seconds later, the video shows a hand putting the piece of paper over the camera lens and the camera is then turned to face the ceiling.

¶ 14 In her testimony at trial, Lawrence admitted shielding her face with the paper, but claimed she did it because she knew Harrison was 'up to no good.'" She claimed Harrison called for her to bring the paper to the dock area and that Harrison, not she, covered the camera lens and turned the camera toward the ceiling. Lawrence offered no explanation why Harrison and his crew—who had been taped for hours moving the property into the facility—would suddenly be concerned about the security camera.

¶ 15 After putting the property into the lockers, Harrison returned to the house and paid a locksmith, with money given to him by Lawrence, to change the locks. In addition, a new security system was installed. After the property was removed from the home, Harrison and Lawrence went to the police station and filed a police report for property Lawrence claimed belonged to her, which was removed from the property. On August 19, 2011, Lawrence gave Harrison the keys to the locker units at Life Storage and told him that the three lockers were in three fictitious names.

¶ 16 On August 31, 2011, Harrison went to Extra Storage Space because Lawrence's attorney asked him to go in her place and videotape the Garretts retrieving their items from a storage locker. When he arrived, he saw the Garretts and had a conversation with them. Following the conversation, he called Lawrence because he learned that the Garretts did not owe her money. Harrison then went to Lawrence's house and told her to return the property to the Garretts.

Lawrence told Harrison not to say anything. Harrison returned to Extra Space Storage and told the Garretts where their belongings were being held. He testified that he later gave the police the keys to the storage units.

¶ 17 On cross-examination, Harrison testified that he knew taking the items from the house was illegal, but he did it anyway because Lawrence was his friend and boss. Harrison admitted that in September of 2011, he filed a claim against Lawrence with the Illinois Department of Labor seeking wages he claims Lawrence owes him. Lawrence testified that she terminated Harrison on September 21, 2011, and that he later threatened her life.

¶ 18 Shalonda Siler testified that she worked at Life Storage and she knew Lawrence because Lawrence rented storage units that she used as office space for her business. On August 16, 2011, Siler was working at Life Storage when Lawrence told her that she needed to rent additional units "for her employees." Current tenants like Lawrence can obtain access to units in advance of filling out paperwork. On August 22, Siler gave defendant storage rental documents to complete for her three additional units. Lawrence completed the documents and paid cash for the units, even though she charged the rental payments for her other units.

¶ 19 Eric Jackson, who lives at 4147 South Drexel Boulevard, testified that on August 20, 2011, he was outside his house when he saw Lawrence and four other people moving boxes out the back door of the Garrett's home and into the garage. Jackson also observed two pickup trucks parked near the house, and saw Lawrence place a lock on the front gate.

¶ 20 Debbie Lozano, vice president of operations for ML Group, testified for Lawrence. She stated that on August 17, 2011, Harrison asked her to purchase pizza, which she did after obtaining authorization from Lawrence via the telephone. She further testified that ML Group paid its bills by checks and credit cards, but not cash.

¶ 21 James Johnson, a plumbing contractor, testified that he participated in a walkthrough of the Drexel property on August 10, 2011. About four or five other people were present during the walkthrough, including Harrison, who told Johnson he liked the overhead projector that was installed in the basement, and stated that he would love have a lot of the Garretts' items.

¶ 22 Dwight McKee, a friend of Lawrence, testified that he was with Lawrence on August 17 from 10:30 a.m. to approximately 3:15 p.m. McKee is of the opinion that Lawrence is an honest person and testified that she never expressed any interest in sports or sports memorabilia.

¶ 23 Lawrence testified that she is the majority owner of ML Group, a company that performs professional pavement marking. She pays ML Group's bills with a credit card or checks, but not cash. Lawrence identified an estimate from Aaron Brothers Moving Systems for Annissa, as well as a receipt from a locksmith with Harrison's signature, and testified that she found the documents in a vehicle that ML Group owns and Harrison drives. Lawrence claimed not to know about either document until she found them in the car, and never authorized Harrison to change the locks on the Drexel property.

¶ 24 Lawrence also testified that a month before the Garretts' one-year lease ended, she requested that they move out of the house. When the Garretts did not respond, she sent them notices that the rent was increased to \$3,200 per month. Lawrence claimed that she sent the Garretts five-day notices every month, but admitted she took no action to enforce them. The Garretts continued to pay only \$3,000 in rent. On June 1, 2011, Annissa sent a letter to Lawrence stating that they would not be requesting an annual lease renewal, and would be moving out on August 31. Lawrence testified she received a second letter from Annissa in mid-August indicating that the family would move by August 22, 2011.

¶ 25 On August 10, 2011, Lawrence, Harrison, and a few other individuals went to inspect the house to see what needed to be fixed in order for Lawrence to move back in. Lawrence denied knowing that the Garretts were traveling to Europe and claimed she did not know the exact date they planned to move. Lawrence was only informed that the Garretts would be moving sometime before the end of the month.

¶ 26 Lawrence also testified that on the morning of August 17, 2011, she was at Life Storage and saw Harrison talking to several people and getting ready to go out on a moving job. Harrison never asked Lawrence for money to pay the movers, and she never paid them. That afternoon, Lawrence saw Harrison and several other men moving furniture and boxes into storage units, but did not know to whom the items belonged. Lawrence went to her office at Life Storage, but when Harrison called her to bring him some paper, she complied. Lawrence held the paper over her face because she knew that Harrison was "up to no good" and did not want the security camera to show that she was associated with his activities. After Lawrence gave Harrison the piece of paper, he held it up in front of the camera and then turned the camera away.

¶ 27 Lawrence discovered that the Garretts' items had been removed from the house on August 18 when she went there with Harrison. Lawrence saw that the back door was open and the house was a mess. Lawrence then safeguarded the property by having a new alarm system installed, changed the locks, and put a bicycle lock on the front gate. She also went to the police station and filed a report for items belonging to her that she claimed the Garretts removed.

¶ 28 Lawrence denied telling Harrison that (i) the Garretts owed her \$12,000, (ii) they were planning on squatting at the house until the end of the year, and (iii) he should take the Garretts' belongings and hold them until they paid her. She also denied giving Harrison keys to the U-Haul vehicles and the storage units, and further stated that Harrison never delivered any of the

Garretts' items to her garage. Lawrence also denied contacting Siler to rent additional storage units, paying Siler, or providing Siler with additional names for those units.

¶ 29 On August 20, 2011, Lawrence moved the remaining items from the house into the garage and then called a moving company to transport those items to Extra Storage Space. She notified her attorney and the Garretts what she had done with the items. The Garretts responded that they did not want her to move the items, but the property had already been moved by the time the Garretts protested. Lawrence immediately provided the Garretts with the keys to the storage units.

¶ 30 Vincent Hardy testified that he worked for Aaron Brothers Moving and Self Storage, met with Annissa, and provided her with an estimate on August 9, 2011, for moving furniture from an address on Drexel Boulevard to Oakwood Street. Later that same month, he moved furniture from Life Storage to an address on Oakwood Street.

¶ 31 The parties then stipulated to a letter from U-Haul that there was no record of any U-Haul vehicles rented by either Lawrence or Harrison between August 16 and August 18.

¶ 32 In rebuttal, Annissa testified that she met with four moving companies, including Aaron Brothers, but explained that she neither recognized the written estimate from Aaron Brothers, nor entered into a contract with them on August 9. Annissa also testified that she never sent Lawrence a letter dated August 12, 2011 informing her that she and her family would move out by August 22. Although the document contained Annissa's signature, she believed it to be a forgery and noted that the letter's closing indicated that she had a Masters of Business Administration (MBA), when she actually had a Masters in Public Affairs (MPA), and that she was in Europe at the time the letter was allegedly written.

¶ 33 Following closing arguments, the trial court found Lawrence guilty of theft of personal property with a value exceeding \$10,000 and less than \$100,000. In the course of its ruling, the court found that the State proved beyond a reasonable doubt that Lawrence—the "mastermind" of the scheme—was guilty of theft of the Garretts' property. The court recognized that Harrison was a "nefarious character" who had full knowledge of and participated in the theft. The court characterized Lawrence's testimony as untruthful, implausible, perjurious, and unworthy of belief. The court noted Lawrence's conduct in covering her face as she walked in front of the security camera at the storage facility as conduct evidencing a consciousness of guilt. The court was not persuaded that the lack of receipts or a paper trail for renting U-Haul trucks or storage lockers was significant given that it was reasonable to assume that both Harrison and Lawrence would attempt to hide their identity.

¶ 34 On appeal, Lawrence contends that she was not proven guilty beyond a reasonable doubt of theft. In particular, she maintains that the State failed to present sufficient evidence that she was involved in the theft of the Garretts' property, or, if she was, that she intended to permanently deprive them of their property.

¶ 35 When presented with a challenge to the sufficiency of the evidence, this court must determine 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. Beauchamp*, 241 Ill. 2d 1, 8 (2011). The credibility of the witnesses, the weight to be given their testimony, and the resolution of any conflicts in the evidence are within the province of the trier of fact, and a reviewing court will not substitute its judgment for that of the trier of fact on these matters. *People v. Brooks*, 187 Ill. 2d 91, 132 (1999). Reversal is

justified only where the evidence is so "unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of [the] defendant's guilt." *People v. Smith*, 185 Ill. 2d 532, 542 (1999).

¶ 36 Lawrence was convicted of theft under section 16-1(a)(1)(A) of the Criminal Code of 1961 (Code). 720 ILCS 5/16-1(a)(1)(A) (West 2010), as amended by Pub. Act 96-1551, Art. 10, § 10-140 (eff. July 1, 2011). Under this section, a person commits theft when she knowingly obtains or exerts unauthorized control over property of the owner, and intends to deprive the owner permanently of the use or benefit of the property.

¶ 37 When we view the evidence in the light most favorable to the State, as we must, the evidence overwhelmingly shows that Lawrence knowingly obtained and exerted unauthorized control over the Garretts' property. The evidence as we have summarized it above supports the conclusion that Lawrence, with the aid of others, entered the Garrett's home when she knew they were away and moved their property to various locations without their permission. In view of the substantial evidence of Lawrence's involvement in the theft, the trial court was simply not obligated to believe Lawrence's testimony that Harrison was the real culprit.

¶ 38 Although we agree with Lawrence, and the circuit court for that matter, that Harrison was a "nefarious character" who at least had knowledge of Lawrence's criminal activity, his testimony establishing that Lawrence was the "mastermind" of the theft was corroborated by the evidence. As our supreme court has observed, the trial court is "not required to accept any possible explanation compatible with the defendant's innocence and elevate it to the status of reasonable doubt." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 229 (2009). Because we do not substitute our judgment for that of the trier of fact as to the issues of witness credibility and the weight to be given each witness's testimony, we decline to retry Lawrence. See *People v. Ross*, 229 Ill. 2d 255, 272 (2008).

¶ 39 Lawrence also contends that even if this court concludes that she was involved in the removal of the Garretts' property, it was not a "theft," because the State failed to prove that she intended to permanently deprive the Garretts of the use and benefit of their property. Lawrence cites Harrison's testimony that she told him she would return the Garretts' possessions if they paid her the \$12,000 they owed her and argues that this does not support a finding that she possessed the necessary intent. In addition, Lawrence points out that she sent the Garretts the keys to one of the storage units where some of their property was being stored.

¶ 40 The proof of a defendant's intent to permanently deprive the owner of use includes her "use, abandonment, or concealment of the property, or consist[s] entirely of h[er] initial taking or control over the property under circumstances suggesting that [s]he intends to permanently retain it.'" *In re Jovan A.*, 2014 IL App (1st) 103835, ¶ 72, quoting *People v. Haissig*, 2012 IL App (2d) 110726, ¶ 32. Here, the evidence showed that Lawrence took the Garretts' property without their permission, and then concealed most of that property in storage units to which she never provided them the keys. It is significant that about 25% of the items taken from the Garretts by Lawrence were never recovered, some of the stolen items like championship rings and original jerseys could never be replaced and many of the recovered items were damaged. And while Lawrence attempted to explain her possession of the Garretts' property, her explanation, as noted by the trial court, was not worthy of belief. See *People v. Ortiz*, 170 Ill. App. 3d 1083, 1088 (1988) (stating that if a defendant "elects to explain h[er] possession of stolen property, [s]he must offer a reasonable story or be judged by its improbabilities"). Therefore, we find sufficient evidence in the record to support the conclusion that Lawrence intended to permanently deprive the Garretts of their property.

¶ 41 *People v. Jensen*, 103 Ill. App. 3d 451 (1982), relied on by Lawrence, is a theft by deception case that is factually inapposite because there the State failed to prove that (i) the story defendant told the victims about his need for money was false or (ii) defendant's failure to repay the sums volunteered by the victims evidenced the necessary intent to permanently deprive the victims of their money. Here, Lawrence's actions showed beyond a reasonable doubt that she never intended to return the stolen items to the Garretts.

¶ 42 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 43 Affirmed.