

No. 1-13-2165

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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 16813
)	
RICHARD OWUSU,)	Honorable
)	Michael Brown,
Defendant-Appellant.)	Judge Presiding.

JUSTICE GORDON delivered the judgment of the court.
Presiding Justice Palmer and Justice Reyes concurred in the judgment.

O R D E R

- ¶ 1 *Held:* The State failed to prove beyond a reasonable doubt that defendant was in possession of a stolen vehicle.
- ¶ 2 Following a bench trial, defendant Richard Owusu was found guilty of possession of a stolen motor vehicle and sentenced to an 18-month term of probation. On appeal, he contends he was not proven guilty beyond a reasonable doubt. We reverse defendant's conviction.
- ¶ 3 Defendant was charged by indictment with several counts of offenses involving stolen motor vehicles. The State proceeded to trial on five of the counts: one count of being the

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organizer of an aggravated vehicle theft conspiracy, one count of aggravated possession of a stolen motor vehicle, and three counts of possession of a stolen motor vehicle. Count V charged defendant with possession on or about March 17, 2011, of "a 2002 Toyota Highlander, the property of Alison Gawron, *** knowing it to have been stolen or converted." The vehicle's VIN was not stated. At trial, the parties stipulated that if Alison Gawron were called as a witness, she would testify that on March 17, 2011, she owned a 2002 Toyota Highlander, VIN JTEGF21A720052580, she was the registered owner "from the point of purchase and initial registration until then," and at no time before, on, or after March 17, 2011, did she give defendant or anyone else involved with the prosecution of the case permission or authority to enter or possess the vehicle. The date of purchase was not stated. The trial evidence included the following testimony relative to count V.

¶ 4 Mark Girlich testified he was working as the New Car Manager at Oak Lawn Toyota on March 7, 2011, between 6:30 and 7 p.m. when he encountered a man in the dealership's service area. At trial, Girlich identified defendant as the man he observed. The service area had closed at 6 p.m. but was accessible after that time by several means: through the new car showroom; through two unlocked side doors, one on each side of the service department; and two large garage doors to the outside. When Girlich entered the service area, there was one vehicle in the area, a blue 2002 Toyota Highlander up on a service rack for repair. Defendant was standing beneath it. When Girlich asked defendant if he could help him, defendant "said no, his wife was paying a bill in the service area or in the cashier window and he was just being nosey." Girlich then returned to the showroom. About 20 or 30 minutes later, Girlich returned to the service department. No one was there and the Highlander was gone. The police were summoned. Girlich

viewed a surveillance tape of the service area with two Oak Lawn police officers and testified: "I saw the garage door was open. I saw the blue Highlander getting backed out of the stall, so someone had dropped the Highlander down from the rack. It was backing out of the stall, pulled up to the garage door, but by then the timer went off and the garage door began to close."

¶ 5 At that point in the testimony, defense counsel objected that the surveillance tape was never tendered and asked the court to limit Girlich's testimony to "what he observed firsthand rather than a video that we cannot review or cross." The assistant State's Attorney admitted the tape was not available but argued: "The fact that we do not have the actual best evidence is unfortunate. However, it does not limit the witness' recollection of what he saw on that date." The court inquired: "What do the Illinois Rules of Evidence say when you don't have the best evidence?" The assistant State's Attorney conceded "that whenever possible to have the best evidence available, which would be the video," but he asserted the testimony was being introduced only for "the effect it had on the witness when he viewed it with the police." The court ruled it would consider the testimony "for the limited purpose of the witness explaining the actions he took and the information that he passed along to the police officers."

¶ 6 Girlich testified that the video showed the garage door closed, "[t]he gentleman got out of the Highlander, went over to the button to open the door again, opened the door, got back in the Highlander, and drove off." It was the same person he had spoken to about 20 minutes earlier. Defense counsel objected to Girlich making an identification of defendant from a video that was never made available to the defense. The objection was sustained, but again the court allowed the testimony only "for the limited purpose of this witness explaining why he gave particular information to law enforcement because it goes to the course of the investigation."

¶ 7 About two weeks later, other police officers showed Girlich 8 or 10 photographs of possible suspects that they thought might be part of the crime. The assistant State's Attorney asked Girlich: "And when you viewed these photos, did you make an identification of the individual who you saw near that 2002 Toyota and who you saw on the video?" Girlich replied that he did and stated that the individual was defendant. The court interjected: "Well, I will strike that question and answer. Sir, did you identify the person that you had a conversation with in the service area?" Girlich replied that he identified defendant.

¶ 8 Girlich did not remember the VIN of the 2002 Toyota that he had seen up on the service rack. His dealership did not own the vehicle and he did not speak directly with the owner until sometime after the vehicle was found. He could not remember the name of the vehicle's owner. Girlich did not know if the officers were provided with copies of the video; he did not make or supply a copy. Neither Girlich nor the State explained why the video was unavailable for viewing at trial.

¶ 9 Ayesh Ayesh testified that he owned a trucking company which transported "ocean containers from point A to point B, from the customers to the rail to the customers." Ayesh had moved containers at the request of "Dr. Slim," whom he also knew as Charles Sarpong. Ayesh had been working with Sarpong for three or four years and had moved many containers for him. Ayesh described Sarpong as "like a broker. He gives me the business. He gives me the reservation number, or the booking number, and I do the work, and usually I get paid from him." Ayesh would conduct business with Sarpong by phone. Ayesh would receive a call from Sarpong instructing him to deliver a container to an address Sarpong would give him. After the delivered container was loaded, Sarpong would call him again and tell him the container was

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ready to be picked up. Then "the other person," whom Ayesh identified as Richard, would also call him.

¶ 10 Ayesh was asked whether he ever had a request from "an individual by the name of Richard Owusu to move a container," and he replied that he did. In March 2011, Sarpong asked Ayesh to transport a container from CSX Railroad. Sarpong told Ayesh the container was for Richard. Ayesh personally transported the container to a warehouse "off of Sibley" in Dolton or South Holland but could not give a specific address. He backed the container into one of two docks at the warehouse. He did not see Sarpong or anyone else at the warehouse location. He did not see anyone loading the container. Ayesh was paid \$350 for delivering the container.

¶ 11 After a day or two, Sarpong called him and said the container was ready to be picked up. On that same day, Ayesh also received two voicemail messages from Richard, saying that the container needed to be moved from the warehouse that night because the caller had more things coming into the warehouse and he needed the dock space. The voicemails did not indicate the caller owned the container or what was in the container. After receiving the voicemails, Ayesh returned the calls to someone identifying himself as Richard. Ayesh had never met Richard but had spoken to him by phone about 10 times previously about different containers and recognized his voice. Richard told Ayesh to take the container back to the rail yard. Ayesh called the rail line but was told by the rail agent that there was no billing, so Ayesh had no choice but to take it back to his own yard. Late that night, at about 12:30 a.m., Ayesh sent his nephew, Abedsalam Ayesh, to pick up the container and take it to Ayesh's property in Northlake.

¶ 12 On March 17, 2011, Ayesh spoke with Inspector Kelley from the Illinois State Police. That was the day when "they" confiscated the container. He went to the Stone Park police

department and was shown several photographs. Ayesh picked out a photo of Sarpong. On that same date, Ayesh drove the container to a location on Mannheim near O'Hare at the direction of law enforcement authorities. The container was loaded with automobiles. Ayesh received a \$1,500 check from Sarpong for his time and service in connection with retrieving the container. Eventually, Ayesh recovered his container a month later by paying a storage fee.

¶ 13 Ayesh did not identify defendant in court. Ayesh had spoken to Richard only by phone and had never met him. Ayesh had no address or description for Richard. Sarpong and Richard never gave Ayesh any paperwork; they would give him only a booking number, which they called a reservation number. Ayesh had no documents with Richard's name on them. Ayesh would do the work and was usually paid by Sarpong. After receiving the two voicemails about the Dolton/South Holland container, Ayesh received no more phone calls from Richard.

¶ 14 On April 4, 2011, Ayesh met with members of the Illinois State Police in Northlake for the purpose of presenting to them the voicemails he received from Richard. However, Ayesh had erased the voicemails, accidentally – "I didn't realize that the police wanted them, so I erased them." Defense counsel moved to strike any testimony by Ayesh with respect to the voicemails, which were no longer available, as a means of identifying a person by the name of Richard. The court ruled it would not consider the substance of the voicemails but would allow it for the limited purpose that Ayesh had recognized the voice as that of the person he knew as Richard.

¶ 15 Ayesh's nephew, Abedsalam Ayesh, did not testify.

¶ 16 Charles Sarpong testified that he was also known as Dr. Slim. He managed a parking garage and also had "a side job, which is shipping containers." People would bring to him a car or personal items or household goods that they wanted to ship. As of 2011 Sarpong had known

defendant about five years, during which time Sarpong shipped containers for defendant that held automobiles and auto parts. Defendant was in the business of fixing and painting cars. In March 2011, Sarpong entered an agreement with defendant to ship automobiles. Defendant told him the vehicle were stolen. Afterwards Sarpong "found out it was Toyota cars." The Toyota vehicles were to be shipped to Togo in West Africa. Sarpong arranged for Ayesh Ayesh to transport an empty container from a rail yard to a warehouse in Dolton and later return it to the rail yard.

¶ 17 At the Dolton warehouse, which was owned by defendant and his father, defendant and two men who worked for Sarpong loaded vehicles into the container. Sarpong could not recall the exact models of the vehicles, but all of them were Toyotas. Before leaving the warehouse, Sarpong himself saw the Toyotas as they were getting ready to be loaded into the container. Later, defendant phoned Sarpong after the container was loaded. Sarpong called the truck driver and told him to pick up the container. The truck driver did not immediately pick up the container, and defendant kept calling him.

¶ 18 Sarpong testified that on the following day, March 18, he received a phone call from the truck driver. Sarpong told defendant that the driver had phoned and said "he had been stopped on the expressway" and that the vehicles in the container were stolen vehicles. Defense counsel's objection to that testimony was sustained on hearsay grounds. On that same day, Sarpong met with two police officers, Creamer and Kelley. Sarpong gave a handwritten statement to Kelley. Sarpong testified defendant paid Ayesh for transporting the container. However, Sarpong was shown a check for \$1,500 payable to Ayesh and admitted the check was his, the signature on the check was that of his wife, and he had given the check to Ayesh.

¶ 19 Illinois State Police Inspector Joseph Kelley testified that on March 17, 2011, he was assigned to investigate a stolen Toyota Highlander. Kelley went to an industrial park area in Northlake where semi-trailers and trucks loaded and unloaded tractor trailers. A LoJack stolen vehicle recovery system signal had been activated in a stolen vehicle and was acquired by a state trooper, identifying a "hit." The signal led the trooper and Kelley to a semi-trailer loaded with a container. They "went in the rear of the trailer, the trailer door was ajar," and Kelley noticed four vehicles inside the trailer. The vehicle Kelley noticed was a Honda CRV. Three other vehicles were also inside the trailer. A check of the VINs of the vehicles through the LEADS system revealed that three of the four vehicles had been reported stolen: a 2008 Honda CRV, a Hyundai Sonata, and a Toyota Highlander. The last six numbers of the Highlander's VIN were 052580. Later the container was transported to a location near O'Hare, where officers documented what was inside the container. Kelley testified that "eventually" he had an opportunity to inspect all four vehicles. Kelley did not recover from the Toyota Highlander any personal property, fingerprints, or other material belonging to defendant. The owner of the Northlake location told Kelley that the truck was owned by a man named Ayesh.

¶ 20 On that same day, Kelley spoke with Ayesh Ayesh, who led Kelley to Charles Sarpong. Kelley met with Sarpong, who told Kelley that someone named Nana had hired Sarpong to ship the March container. On the following day, March 18, Kelley had another conversation with Sarpong at a police station and Sarpong gave the police a written statement. Sarpong told Kelley "[t]hat he had ordered the trailer for Richard Owusu to transport vehicles to another country."

¶ 21 Also on March 18, Kelley met with Mark Girlich at the Toyota dealership and showed him a photo array. Girlich identified one of the photos, a photo of defendant, as the man "who

removed the Toyota Highlander from the service area." Defense counsel objected to this testimony on hearsay grounds. The trial court overruled the objection, ruling that "[t]here is a statutory exception to hearsay when it goes to the identification the witness made when that witness is subject to cross examination."

¶ 22 Benedictus Akorlie testified that he leased various vehicles from defendant over a six-year period. In a written statement to police, Akorlie stated defendant told him that in the past he (defendant) had sent stolen vehicles to Charles Sarpong. Defendant never admitted to Akorlie that he had anything to do with the vehicles alleged to have been stolen in March 2011. Defendant told Akorlie that he and the place where the vehicles were shipped from "had a joint venture business" with Sarpong, and they shared a warehouse space in Dolton.

¶ 23 The parties executed a written stipulation that on March 17, 2011, Alison Gawron was the owner of a 2002 Toyota Highlander, VIN JTEGF21A720052580, and she never gave permission to defendant or anyone else connected with the present prosecution to possess that vehicle before, on, or after March 17, 2011.

¶ 24 Defendant presented no evidence.

¶ 25 The trial court found defendant guilty on count V (possession of a stolen motor vehicle) and not guilty on the remaining counts (one count of being the organizer of an aggravated vehicle theft conspiracy, one count of aggravated possession of a stolen motor vehicle, and two counts of possession of a stolen motor vehicle). The court concluded: "I think the testimony of the manager of the Toyota dealer, his identification of the defendant and the circumstances under which that vehicle was recovered certainly warrants an inference that Mr. Owusu stole that 2002 Toyota Highlander."

¶ 26 Defendant's posttrial motion asserted, *inter alia*, that the State failed to prove him guilty beyond a reasonable doubt, and that the court erred in failing to sustain defense counsel's objection to Girlich's testimony that the video showed defendant removing the Highlander from the service area and to subsequent testimony about Girlich's identification of defendant on the video. The trial court denied defendant's posttrial motion and sentenced defendant to an 18-month term of probation.

¶ 27 On appeal, defendant contends the State failed to prove beyond a reasonable doubt that he was in possession of a stolen motor vehicle. He asserts there was no evidence that the 2002 Toyota Highlander recovered by the police was the same vehicle near which Girlich observed defendant at the Toyota dealership, nor was there evidence defendant was in possession at any time of the container in which the Highlander was recovered.

¶ 28 The State responds that the circumstantial evidence allowed the reasonable inference that the Highlander stolen from the Toyota dealership was the same vehicle recovered in Northlake where defendant was observed near the Highlander at the Toyota dealership 20 minutes before it was stolen, defendant told Akorlie he had sent stolen vehicles to Sarpong, defendant contracted with Sarpong and Ayesh to transport stolen vehicles, and the Highlander was found in Ayesh's truck in Northlake.

¶ 29 The critical inquiry on review of a sufficiency of the evidence claim 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. Diaz*, 377 Ill. App. 3d 339, 344 (2007). This standard of review does not allow a reviewing court to substitute its judgment for that of the trier of fact on questions involving the weight of the

evidence or the credibility of the witnesses. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009).

Rather, it is the responsibility of the trier of fact to assess the credibility of the witnesses, to weigh the evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence. *People v. Billups*, 384 Ill. App. 3d 844, 846 (2008). A conviction will be overturned only where the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt as to the defendant's guilt. *People v. Ward*, 371 Ill. App. 3d 382, 415 (2007) (citing *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001)).

¶ 30 A person commits the offense of possession of a stolen motor vehicle when he is in possession of a motor vehicle which he knows to have been stolen. 625 ILCS 5/4-103(a)(1) (West 2010). To establish a defendant's guilt of possession of a stolen motor vehicle, the State must prove beyond a reasonable doubt that the defendant possessed the vehicle, he knew he was not entitled to possess the vehicle, and he knew the vehicle was stolen. *People v. Cox*, 195 Ill. 2d 378, 391 (2001). When evidence of ownership is used by the State to establish the vehicle was stolen, there must be evidence that the defendant possessed the same vehicle which was owned by the complainant. *People v. Smith*, 226 Ill. App. 3d 433, 438 (1992).

¶ 31 The evidence failed to sufficiently link the Highlander in the Oak Lawn dealership on March 7 to Gawron's Highlander in the container in Northlake on March 17. Both vehicles shared the year of production (2002), the maker (Toyota) and the model (Highlander). Girlich testified that he did not know the VIN of the Highlander he observed at the dealership. Although a VIN is not a required element in proving the identity of a vehicle, other evidence must establish that the defendant possessed the actual stolen vehicle. See, e.g., *People v. Tucker*, 186 Ill. App. 3d 683, 691-92 (1989) (the defendant was a passenger in a vehicle with Louisiana license plates;

later an individual claimed the vehicle, showed police his Louisiana driver's license, inspected the vehicle, signed for it, and obtained the release of the vehicle from police); *People v. Santana*, 161 Ill. App. 3d 833, 837-38 (1987) (police observed the defendant inside a "chop shop" leaning into the stolen vehicle in the process of being stripped). Furthermore, Girlich could not recall the name of the Highlander's owner. In addition, Girlich testified the Highlander at the dealership was blue, but no evidence was presented as to the color of Gawron's Highlander. Moreover, the trial court admitted Girlich's testimony about recognizing defendant in the video as the person driving away in a Highlander from the Toyota dealership for the limited purpose of explaining the investigatory steps the police took and, therefore, no substantive evidence established defendant as the driver. No other matching identifiers, such as license plate numbers or possible damage or descriptions of the interior, were presented. This evidence was not sufficient to establish beyond a reasonable doubt that defendant possessed Gawron's Highlander or any stolen vehicle on March 7.

¶ 32 We find that *People v. Stone*, 75 Ill. App. 3d 571 (1979), is instructive. There, the defendant's conviction for theft of a motor vehicle was reversed where the State failed to prove ownership of the stolen vehicle. The stolen vehicle's owner testified as to the year, make, model, color, and license plate number of the vehicle, but the investigating officer testified only as to the color of the vehicle. This court concluded the evidence was insufficient to establish that the vehicle found by the officer was the same vehicle that belonged to the victim. *Stone*, 75 Ill. App. 3d at 573-75. Although the offense charged there was theft of a vehicle and not possession of a stolen motor vehicle, *Stone* remains instructive where the trial court in the instant case concluded that the evidence, including Girlich's testimony and identification of defendant, warranted an

inference that defendant stole Gawron's Highlander from the Toyota dealership. We conclude, however, that the evidence established only a tenuous nexus between Gawron's stolen Highlander and the Highlander taken from the dealership.

¶ 33 Both parties acknowledge that, absent proof of ownership of a stolen vehicle, chain-of-custody evidence may form the basis of a proper inference of identification. *People v. Fernandez*, 204 Ill. App. 3d 105, 109 (1990). There, the indictment charged the defendant with possession of a stolen motor vehicle and identified the vehicle as a "1984 Mazda *** the property of Susan Haerr knowing it to have been stolen and converted." At trial, the parties stipulated that if Susan Haerr were called as a witness, she would testify she owned a 1984 Mazda, VIN JM1FB3324EQ83Q894, and on March 18, 1988, she had not given anyone permission to have possession of it. Further trial evidence showed that an individual named Meskin rented one space in a private two-car garage and parked a red Mazda RX7 in the rented space. The garage owner noticed that the vehicle was being dismantled day by day, observed Meskin and the defendant remove pieces of the vehicle from the garage, and called police, who found the Mazda had been stripped to the chassis. No evidence was introduced as to the Mazda's VIN. The trial court found defendant guilty, but the appellate court reversed, concluding that the evidence was insufficient either to identify the vehicle in the indictment as the one in the garage or to establish a chain of custody from which a proper inference of identification might be drawn. *Fernandez*, 204 Ill. App. 3d at 109.

¶ 34 Here, the indictment charged defendant with possession on or about March 17, 2011, of "a 2002 Toyota Highlander, the property of Alison Gawron, *** knowing it to have been stolen or converted." The vehicle's VIN was not stated. At trial, the parties stipulated that if Alison

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Gawron were called as a witness, she would testify that on March 17, 2011, she owned a 2002 Toyota Highlander, VIN JTEGF21A720052580, she was the registered owner "from the point of purchase and initial registration until then," and at no time before, on, or after March 17, 2011, did she give defendant permission to possess the vehicle. The date of purchase was not stated. Here, as in *Fernandez*, the evidence was insufficient either to establish a nexus between the vehicle described in the indictment and any vehicle shown to have been in the possession of the accused, or to establish a chain of custody, as the shipping container in which Gawron's Highlander was found was not linked to defendant. Ayesh testified he delivered an empty container to a warehouse in Dolton. Sarpong testified that a container at the Dolton warehouse was loaded with "all Toyotas," but he did not testify that one of the Toyotas he observed belonged to Gawron. Moreover, only one of the four vehicles found in the container recovered in Northlake was a Toyota. Although Ayesh testified that he instructed his nephew Abedsalam to drive the container to his yard in Northlake, Abedsalam never testified. Accordingly, the State failed to prove that Gawron's Highlander recovered in a container in Northlake was the same Highlander Girlich observed at the Toyota dealership or that the container found in Northlake by Kelley was the same container defendant loaded in Dolton.

¶ 35 The State responds that a chain of custody was established by circumstantial evidence, namely, that "defendant and his accomplices transported stolen vehicles for him in a shipping container," Ayesh testified as to his involvement in transporting "that particular container," Sarpong testified he saw "Toyota cars" in the container which defendant admitted were stolen, Akorlie testified defendant had admitted to having sent stolen cars to Sarpong in the past, and Kelley testified Gawron's Highlander was found in the container in Northlake.

¶ 36 We believe a serious question exists as to whether the State proved the container defendant loaded with "all Toyotas" in his Dolton warehouse on some unknown date in March 2011 was the same container that was recovered by Kelley in Northlake on March 17, containing a Toyota, a Honda, a Hyundai, and a fourth vehicle not identified by make or model. Ayesh testified that, at Sarpong's direction, he delivered a container from a rail yard to a warehouse in Dolton. Ayesh did not testify as to what date this occurred, other than that it was sometime in March 2011. Sarpong testified that defendant and two other men loaded the container in Dolton with "all Toyotas" which Sarpong personally viewed. Ayesh testified that defendant instructed him by phone to pick up the container from Dolton and return it to the rail yard. However, Ayesh did not do so. He testified he instructed his nephew to pick up the container and take it to his own yard in Northlake. Ayesh's nephew did not testify. There was no testimony about when or even if the container loaded with Toyotas in defendant's warehouse was ever picked up and transported. We find it surprising that neither Ayesh nor Kelley identified the container by its number or any other matching identifying marks to establish that the container Ayesh transported from the rail yard was the same container that was found in Northlake, unsecured with one door ajar. There was no testimony that the Highlander recovered by Kelley was returned to Gawron or identified by her as her property.

¶ 37 It is undeniable that the evidence showed defendant was involved in the unlawful possession and transport of stolen vehicles. The State argues that defendant was part of a stolen-car ring and his partners were Ayesh and Sarpong, although the trial court acquitted defendant of being the organizer of an aggravated vehicle theft conspiracy and all other indictment counts except the possession of Gawron's stolen motor vehicle. The evidence also showed that on

March 17, 2011, authorities in Northlake recovered a Toyota Highlander with a VIN ending in 052580; and on that same date Alison Gawron owned a 2002 Toyota Highlander with a VIN ending in 052580 and did not give defendant permission or authority to enter or possess that vehicle. The evidence did not show, however, that Gawron had purchased her Toyota Highlander on or before March 7, 2011, or that she was the owner of the Toyota Highlander driven from the Oak Lawn Toyota dealership on March 7, nor did it establish that Gawron's Highlander was among the Toyotas which were loaded into a container in the Dolton warehouse on some unknown date in March 2011. Consequently, none of the State witnesses testified that Gawron's Toyota Highlander was ever in the actual possession of defendant.

¶ 38 *People v. Hope*, 69 Ill. App. 3d 375 (1979), is instructive. The defendant's convictions for theft and possession of a stolen motor vehicle were reversed where the evidence failed to show that the white 1976 Oldsmobile 98 driven by defendant was the same white 1976 Oldsmobile 98 that had been stolen from an Oldsmobile dealership. No chain of custody was presented to indicate that the Oldsmobile in which defendant was arrested was later returned to and accepted by the owner. In the instant case, as in both *Hope* and *Fernandez*, the State failed to prove beyond a reasonable doubt that the Highlander Girlich observed defendant standing near at the Toyota dealership was the same Highlander owned by Gawron, nor in lieu of proof of ownership did the State present sufficient chain-of-custody evidence to link the recovered vehicle to defendant.

¶ 39 Critically, the trial court's findings of fact made no reference to the chain of custody of the vehicle, which we have found wanting. It is remarkable that the State did not obtain the shipping container's number from Ayesh and Kelley to show the container delivered to defendant

in Dolton was the same recovered by Kelley in Northlake. Also, the indictment failed to identify the VIN of Gawron's vehicle; the State failed to introduce records from Oak Lawn Toyota's service department showing the VIN of the Highlander being serviced or the owner's name; and the stipulation of the parties as to the ownership of the Highlander could have stated whether Gawron owned the vehicle on March 7, 2011, when defendant took a Highlander from the dealership.

¶ 40 Defendant contends that the trial court committed reversible error by admitting improper hearsay identification evidence in allowing Inspector Kelley to testify that Mark Girlich identified a photograph of defendant as depicting the man "who removed the Toyota Highlander from the service area" of the Toyota dealership. We need not reach this issue because, even with this contested testimony considered, we find that defendant's conviction was based on insufficient evidence and must be reversed.

¶ 41 We conclude the State failed to meet its burden of establishing beyond a reasonable doubt that defendant was in possession of a stolen motor vehicle. Accordingly, we are required to reverse the judgment of the trial court.

¶ 42 Judgment reversed.