THIRD DIVISION
November 10, 2015

No. 1-13-2170

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. 12 CR 15336
	)	
CEDRICK EASTERLNG,	)	Honorable
	)	Neera Lall Walsh,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

O R D E R

¶ 1 ***Held:*** Defendant's conviction for felony criminal damage to property affirmed where the evidence sufficiently established that cost of the damage exceeded $300; assessment order amended to reflect additional $65 credit.

¶ 2 Following a bench trial, defendant Cedrick Easterling was convicted of felony criminal damage to property and sentenced to two years' imprisonment. On appeal, defendant contends that his conviction should be reduced from felony to misdemeanor criminal damage to property

because the State failed to prove beyond a reasonable doubt that the cost of the damage exceeded $300. Defendant also contends that two of his fines should be offset by his presentence incarceration monetary credit.

¶ 3 At trial, Chicago police officer Eric O'Souji testified that about 9 a.m. on August 7, 2012, he was on patrol near the Woodlawn Community Center at 753 East 63rd Street when he saw two men in the alley with a six-foot ladder. Defendant was standing at the bottom of the ladder holding it with both hands as it leaned against the wall of the building. Codefendant Harold Wilson[1] was standing at the top of the ladder cutting the building's electrical wires with an electric saw which was connected to a long extension cord that was plugged into an outlet at the library across the alley. As the officer approached in his car, defendant looked up the ladder and said something to codefendant. Officer O'Souji stopped his car and asked defendant what they were doing, then exited his vehicle and saw a cut wire inside of a pipe hanging near codefendant. The officer acknowledged that he never saw defendant holding the saw or cutting the pipe.

¶ 4 Theodore Pittman, property manager for the Woodlawn Community Development Corporation, testified that the property at 753 East 63rd Street is a large commercial building that used to be a community center, but was being used for storage. About 9:30 a.m. on August 7, 2012, Pittman was driving down 63rd Street when he saw police in the alley behind the building. Pittman stopped his car and walked to the alley where he spoke with Officer O'Suoji. Pittman saw that the electrical wires that ran from the electrical service pole to the building were hanging down in the middle of the alley. The wiring was still contained within the conduit, but the

[1] Codefendant was not tried with defendant and is not a party to this appeal.

conduit was no longer attached to the building. Pittman then called an electrician, John McMiller, who met with him at the scene. Pittman testified that neither he nor anyone else from the Woodlawn Corporation, gave anyone permission to take, cut into, or in any way alter the electrical service or conduit that entered the building, and acknowledged that he did not see who cut the conduit pipe connected to the building. He also acknowledged that he had two prior burglary convictions and two convictions for misdemeanor criminal trespass to a vehicle, but had no offenses since 2007.

¶ 5 John McMiller, an electrician for 55 years, testified that he responded to Pittman's service call regarding the downed power lines at 753 East 63rd Street, and met with Pittman in the alley to check the electrical supply service. McMiller saw that one of the supply service pipes containing wires was leaning off the building, extended across the alley, and leaning against the Chicago public library building on the other side of the alley. The pipe contained three copper wires, each of which was an inch thick. The wires were still connected to the conduit, but a portion of the conduit had fallen where the wires had been cut from the building's Commonwealth Edison service drop. McMiller determined that the conduit and wires that had been cut were from the single phase service which supplied lighting to the building, and he estimated that it would cost about $2,400 to make the necessary repairs to restore electrical service to the building.

¶ 6 Veyshon Edmond, branch manager for the Chicago public library, testified for the defense that on August 6, 2012, she arrived at the library when it opened at noon, and none of the library's computers were working. Edmond discovered that a pole in the alley, which belonged to

the building across the alley, had fallen towards the library and knocked down the library's fiber optics cable. To the best of her recollection, this incident occurred on Monday, August 6, 2012. On Tuesday, August 7, 2012, she arrived at the library at 9:50 a.m. for the 10 a.m. opening, and did not recall anything unusual happening that day. Edmond testified that she did not know defendant, she was not present when the pipe fell, and was not aware of any activity that occurred in the alley prior to her arrival at work.

¶ 7 Defendant testified that he lived two blocks from the community center and often walked through the alley as a shortcut. Around 9 or 10 a.m. on August 7, 2012, he was walking past the alley and saw a man and woman from the city's Department of Streets and Sanitation looking at a pipe that was hanging across the alley from the building to the library. Defendant had seen that pipe hanging there days before. The workers told him that they had to drive their truck around the block because they could not drive through the alley and risk damaging the truck. Defendant then went inside the library to use the bathroom, and although the library was closed at that time, the janitor, whom he knew, but not her name, let him in to use the facility. When he came out, he saw codefendant hanging from a ladder. Defendant also testified that codefendant was hanging from the pole that was leaning across the alley and that the ladder was on the ground underneath him. He grabbed the ladder to support it so codefendant would not fall, and saw an electrical saw on the ladder, which was connected to a power cord that was connected to the library. When the police arrived, defendant told codefendant to come down. Defendant tried to explain what was happening to the officer, but the officer told him to shut up, get in the car, and arrested him.

Defendant denied knowing codefendant, or having a plan or discussion with him about doing anything to the building.

¶ 8 The trial court found that defendant's testimony was "wholeheartedly fabricated." It further found that McMiller had many years of experience as an electrician, he was "quite knowledgeable" about the cost to repair the damage, and assessed the damage to the electrical service at $2,400, specifically noting that this amount exceeded $300 and was less than $10,000. The court also found that the evidence showed that defendant was aiding and facilitating codefendant as codefendant cut the wires, and thus, he was guilty of criminal damage to property.

¶ 9 In subsequently denying defendant's motion for a new trial, the court pointed out that McMiller had testified that the estimated cost to repair the damage and put the building back into service was $2,400, and therefore, the State had met its burden in proving the amount of the damage. The trial court then sentenced defendant to two years' imprisonment, assessed him court costs totaling $494, awarded him credit for 317 days served in presentencing custody, and pointed out that defendant would receive monetary credit of $5 per day served.

¶ 10 On appeal, defendant contends that his conviction should be reduced from felony to misdemeanor criminal damage to property because the State failed to prove beyond a reasonable doubt that the cost of the damage exceeded $300. Defendant asserts that because there was no testimony regarding the condition of the pole, pipe and wires prior to Officer O'Souji's arrival at the scene, the State failed to prove the amount of damage actually caused by codefendant. Defendant expressly states that he does not dispute the fact that codefendant caused some

damage, or that the cost to restore electricity to the building exceeded $300, but maintains that there was no evidence regarding how much of the $2,400 in damage was caused by codefendant. Defendant also states that he agrees that the cost to repair property is a proper method for determining the value of damage for which a defendant is criminally liable, but argues that the State must also show that the repairs were necessitated by defendant's conduct, and it failed to do so here.

¶ 11 The State responds that the evidence sufficiently established that the damage exceeded $300 where the cost of repairs is a proper method for determining the amount of damage for which defendant is criminally responsible, and here, McMiller testified that the cost to repair the electrical service was $2,400. The State argues that the current value of the property at the time of the damage is not an issue, and that the market value of the pole, pipes and wires at the time of the damage has no bearing on the cost to restore service and repair the actual damage caused by defendant.

¶ 12 When defendant contends that the evidence is insufficient to sustain his conviction, this court must determine whether any rational trier of fact, after viewing the evidence in the light most favorable to the State, could have found the elements of the offense proved beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). "Under this standard, all reasonable inferences form the evidence must be allowed in favor of the State," (*People v. Baskerville*, 2012 IL 111056, ¶ 31), and this standard applies whether the evidence is direct or circumstantial (*People v. Jackson*, 232 Ill. 2d 246, 281 (2009)). A criminal conviction will not be reversed based upon insufficient evidence unless the evidence is so improbable or unsatisfactory

that there is reasonable doubt as to defendant's guilt. *People v. Givens*, 237 Ill. 2d 311, 334 (2010).

¶ 13 To prove defendant guilty of felony criminal damage to property in this case, the State was required to show that he knowingly damaged property belonging to the Woodlawn Community Development Corporation, and that such damage exceeded $300, but was less than $10,000. 720 ILCS 5/21-1(1)(a); (2) (West 2012). "When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value." 720 ILCS 5/21-1(1) (West 2012). The statute does not indicate the nature of the proof the State is required to adduce to establish that the damage exceeded $300; however, the supreme court has found that when determining the value of the damage to property, the cost of repairs necessitated by defendant's conduct is an accurate indication of the damage suffered by the victim, and thus, is a proper method for determining defendant's criminal responsibility. *People v. Carraro*, 77 Ill. 2d 75, 79-80 (1979).

¶ 14 Viewing the evidence in the light most favorable to the State, we find that such evidence sufficiently established that the damage caused by defendant in this case exceeded $300. Officer O'Souji testified that he caught defendant and codefendant in the act of cutting the building's electrical wires with an electric saw. John McMiller, an experienced electrician, testified that he assessed the damage to the building's electrical service, specifically noting that the conduit and wires had been cut, and estimated that it would cost about $2,400 to make the necessary repairs to restore electrical service to the building. The uncontested evidence thus established that the

cost of repairing the electrical service, which was necessitated by codefendant's conduct of cutting through the electrical wires, was $2,400. Sitting as the trier of fact, the trial court found that this evidence sufficiently proved that defendant caused damage to the property which exceeded $300, and we find no basis for disturbing that determination.

¶ 15 In reaching this conclusion, we have considered *People v. Josephine*, 165 Ill. App. 3d 762 (1987), *People v. Davis*, 132 Ill. App. 3d 199 (1985), *People v. Castro*, 109 Ill. App. 3d 561 (1982) and *People v. Brown*, 36 Ill. App. 3d 416 (1976), cited by defendant, and find his reliance on these cases misplaced. These felony theft cases considered whether the evidence presented was sufficient to establish the fair market value of stolen property at the time it was stolen, not the amount of damage to the property, which can be established by evidence of the cost of repairs. *Carraro*, 77 Ill. 2d at 79-80.

¶ 16 Defendant next contends, the State concedes, and we agree, that the monetary credit for the days he served in presentence custody (725 ILCS 5/110-14 (West 2012)) offsets the $15 State Police Operations Fee (705 ILCS 105/27.3a-1.5 (West 2012)) and the $50 Court System fee (55 ILCS 5/5-1101(c) (West 2012)). Pursuant to our authority (Ill. S. Ct. R. 615(b)(1) (eff. Aug. 27, 1999); *People v. McCray*, 273 Ill. App. 3d 396, 403 (1995)), we direct the clerk of the circuit court to amend the Fines, Fees and Costs order to reflect this additional $65 credit.

¶ 17 For these reasons, we direct the clerk of the circuit court to amend the assessment order, and affirm defendant's conviction and sentence in all other respects.

¶ 18 Affirmed.