2015 IL App (1st) 142821-U
No. 1-14-2821

THIRD DIVISION
February 11, 2015

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

	)	Appeal from the Circuit Court
	)	of Cook County.
	)	
IN THE INTEREST OF	)	
	)	No. 14JD2155
	)	
AMOS W., a Minor,	)	
	)	The Honorable
Respondent-Appellant,	)	William G. Gamboney,
	)	Judge Presiding.
	)	

PRESIDING JUSTICE PUCINSKI delivered the judgment of the court.
Justices HYMAN and MASON concurred in the judgment.

ORDER

¶ 1 *Held*: circuit court's order adjudicating minor delinquent of the offense of criminal trespass to a motor vehicle reversed where the elements of the offense were not proven beyond a reasonable doubt.

¶ 2 Minor respondent Amos W. was adjudicated delinquent of the offense of criminal trespass to a motor vehicle in a juvenile proceeding governed by the Juvenile Court Act of 1987 (Act) (705 ILCS 405/5-101 et seq. (West 2014)) and was committed to the Illinois Department of Corrections for an "indeterminate term." On appeal, respondent challenges his delinquency

adjudication, arguing that the State failed to prove him guilty of the offense beyond a reasonable doubt.[1] For the reasons set forth herein, we reverse the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 On June 1, 2014, a white Toyota Highlander SUV owned by Manuel Escarayan was stolen. The following day, respondent was one of three juveniles arrested in connection with the incident and was charged with criminal trespass to a motor vehicle.[2]

¶ 5 At the adjudication hearing that followed, Escarayan testified that on June 1, 2014, he drove his Toyota SUV to Chinatown to have lunch with his wife and cousin. He parked the vehicle, which he had purchased three months earlier, on Princeton Street at approximately 12 p.m. The vehicle was in good condition with no visible signs of damage. He testified that he left a spare key in the vehicle and locked the car before he went into the restaurant. Approximately 45 minutes later, Escarayan returned to Princeton Street, but his vehicle was no longer there; rather, another vehicle was parked in its place. After looking around and observing pieces of glass on the ground, Escarayan called "911 right away" and reported his vehicle stolen.

¶ 6 At approximately 5 p.m. the following day, Escarayan received a phone call from a police officer and was told that his vehicle had been recovered. When he went to retrieve his car, Escarayan observed that the rear passenger window had been broken and noticed that pieces of glass littered the floorboard. In addition, there was a dent on the front left side of the SUV as well as scratches and dents along other portions of the vehicle's left side. The spare tire was also missing. Escarayan testified that he had no personal knowledge regarding how his vehicle had

[1] Respondent also challenges his sentence on appeal. He contends, and the State agrees, that the circuit court erred in committing him to the Illinois Department of Corrections for an indeterminate term. However, because we find that the State failed to prove respondent's guilt beyond a reasonable doubt we need not address that argument in our disposition.

[2] This appeal solely pertains to respondent.

been damaged. He further testified that he had never met respondent and had never given him permission to use his vehicle.

¶ 7 Chicago Police Officer Steve Pulia testified that on June 2, 2014, at approximately 5 p.m., he and his partner were on routine patrol near the 1200 block of South Christiana when he observed a white Toyota SUV containing four or five occupants fail to stop at a stop sign located at the corner of 13th Street and Christiana. As they followed the vehicle eastbound on 13th Street, he ran the license plate of the SUV, discovered that the vehicle had been reported stolen and notified dispatch. Officer Pulia and his partner followed the vehicle for approximately five or six blocks before the SUV turned into an alley located off of Troy. At that point, the driver of the vehicle opened the door and jumped out of the SUV while it was still moving. After the vehicle hit a fence and came to a stop, Officer Pulia observed the front passenger door and both rear passenger doors open. Four other individuals exited the vehicle and began to flee. Respondent was one of three occupants who exited the vehicle from one of the rear passenger doors. Officer Pulia, his partner, and other responding officers began chasing the vehicle's occupants on foot. Three of the vehicle's occupants, including respondent, were apprehended a "few houses down."

¶ 8 While Officer Pulia's colleagues transported respondent and the other occupants of the vehicle to the 10th District police station, he drove the stolen SUV back to the station using the keys that had been left in the ignition. He testified that the SUV had "front-end damage to the bumper, grill, and hood, as well as a broken window on the passenger's side rear door." There was also broken glass on the rear floor of the vehicle. Officer Pulia confirmed, however, that there was no damage to the vehicle's steering wheel or steering column. He also confirmed that respondent had not been the driver of the vehicle and acknowledged that he did not know when

respondent had entered the vehicle. The driver of the vehicle was never identified or apprehended.

¶ 9 After presenting the aforementioned testimony, the State rested its case-in-chief and respondent called no witnesses. Counsel for respondent did, however, deliver a closing statement in which she challenged the sufficiency of the State's case and argued that the State failed to prove beyond a reasonable doubt that respondent knew he was entering a vehicle without the owner's consent. Specifically, counsel argued:

> "Knowledge, as you heard, is an essential element of the offense. And although it may be established by circumstantial evidence, minor's physical presence in the vehicle without more is not enough.
>
> According to the testimony that you heard, [respondent] was a rear passenger, there were keys in the ignition, and there was no exterior damage or damage to the steering column. The fact that minor ran from the vehicle is not enough. You heard testimony that the driver jumped out of a moving vehicle. It's reasonable for a kid to be scared and do the same. This happened very quickly. ***
>
> The fact that there was a broken window, that still is not enough to establish that the minor knew that the vehicle—that he did not have consent to be in the owner's vehicle. There's no evidence of how long the minor had been in the vehicle or when the minor got in the vehicle. There's not any evidence as to what side of the vehicle the minor exited."

¶ 10 After hearing arguments from the parties, the court adjudicated respondent delinquent of the offense of criminal trespass to a motor vehicle. The court explained its ruling as follows:

> "[T]he Court finds that the complaining witness and Officer Pulia were very credible; and I believe beyond a reasonable doubt that the minors were in the car. I didn't really

hear much discussion from the defense even challenging that. It seems like the main issue is whether the State proved knowledge beyond a reasonable doubt.

And, of course, the only way that could be accomplished is through circumstantial evidence. And the court finds very compelling the fact that there was a broken side window, that there was shattered glass strewn throughout the car—I believe the testimony was—that would lead one to believe that this car was stolen.

By—I'm not that good at math—but by looking at the dates of births on these petitions, I believe *** [respondent] was about 16; and [he's] somehow in an almost brand-new 2013 SUV, which I believe is a very expensive car.

Moreover, the defendants ran from the car which shows consciousness of guilt and does not show the activity of someone who was mistakenly in a stolen car.

The Court finds that the State has proved their burden beyond a reasonable doubt."

¶ 11 Respondent's motion to reconsider was denied and the cause was continued for sentencing. After hearing from respondent's probation officer who detailed respondent's prior criminal history and admitted gang involvement and drug use, the court ordered that respondent "be committed to the Illinois Department of Juvenile Justice for an indeterminate term." This appeal followed.

¶ 12 ANALYSIS

¶ 13 On appeal, respondent challenges the sufficiency of the evidence. He asserts that the State failed to prove him delinquent of the offense of criminal trespass to a motor vehicle because "no evidence was presented showing [he] knew at the time he entered the SUV that it was stolen or that the driver was not in lawful possession" of the vehicle.

¶ 14 The State responds that it "presented uncontroverted evidence that one of the windows of the car was broken [and] there were pieces of glass inside of the vehicle," which were "obvious signs that the vehicle was stolen." Accordingly, the State argues that "[t]he circumstantial evidence in this case, viewed in the light most favorable to the People, establishes that respondent had knowledge that he was riding in a stolen motor vehicle."

¶ 15 Due process requires proof beyond a reasonable doubt to convict a defendant of a criminal offense. *People v. Ross*, 229 Ill. 2d 255, 272 (2008). This standard is applicable to juvenile delinquency proceedings. *In re Jonathan C.B.*, 2011 IL107750, ¶ 47. In reviewing a challenge to the sufficiency of the evidence, it is not a reviewing court's role to retry the defendant; rather, we must view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found each of the essential elements of the crime beyond a reasonable doubt. *In re Jonathan C.B.*, 2011 IL107750, ¶ 47; *People v. Ward*, 215 Ill. 2d 317, 322 (2005); *People v. Hayashi*, 386 Ill. App. 3d 113, 122 (2008). The trier of fact is responsible for evaluating the credibility of the witnesses, drawing reasonable inferences from the evidence, and resolving any inconsistencies in the evidence (*People v. Bannister*, 378 Ill. App. 3d 19, 39 (2007)), and a reviewing court should not substitute its judgment for that of the trier of fact (*People v. Sutherland*, 223 Ill. 2d 187, 242 (2006)). Ultimately, a reviewing court will not reverse a defendant's conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to his guilt. *People v. Carodine*, 374 Ill. App. 3d 16, 24 (2007).

¶ 16 Criminal trespass to a vehicle occurs when a person "*knowingly* and without authority enters any part of or operates any vehicle * * *." (Emphasis added.) 720 ILCS 5/21-2 (West 2014). Because knowledge is an essential element of the crime, it is incumbent upon the State to

prove that the respondent knowingly entered the vehicle of another without that person's consent. *People v. Wilder*, 46 Ill. App. 3d 507, 510 (1977); see also *People v. Slaughter*, 87 Ill. App. 3d 1066, 1068 (1980) ("The gravamen of the offense is the knowing entry of a vehicle of another without authority"). A person does not commit the offense of criminal trespass to a vehicle if he enters a vehicle not knowing it was stolen (*People v. Posey*, 83 Ill. App. 3d 885, 888 (1980); *People v. Luis*, 13 Ill. App. 3d 245, 300 (1973)) or if he remains in the vehicle after learning that the vehicle in which he made an innocent entry was stolen (*People v. Owes*, 5 Ill. App. 3d 936, 938 (1972)). The State, however, may use circumstantial evidence to establish that the respondent had the requisite knowledge at the time of entry that the vehicle was stolen to sustain a conviction for criminal trespass to a vehicle. *People v. Posey*, 83 Ill. App. 3d 885, 888-89 (1980).

¶ 17 Here, viewing the evidence in the light most favorable to the State, we find that the State failed to prove beyond a reasonable doubt that respondent knew the SUV was stolen at the time of entry. Officer Pulia's testimony at the adjudication hearing established that respondent was one of five[3] passengers in the stolen SUV that he encountered at approximately 5 p.m. on June 2, 2014. This was more than 24 hours after Escarayan had reported it stolen and there was no evidence as to when or under what circumstances respondent entered the vehicle. Although the driver of the SUV was never identified or apprehended, Officer Pulia testified that the unknown male left the keys in the ignition of the vehicle when he fled the scene on foot. He also confirmed that there was no damage to the vehicle's steering wheel or steering column but testified that one of the SUV's rear passenger windows had been broken. In finding that respondent had the requisite knowledge that the car was stolen to be found delinquent of the

[3] Officer Pulia initially testified that the SUV contained 4 or 5 occupants; however, he later testified that four passengers exited the vehicle after the driver abandoned the SUV with the key in the ignition.

offense of criminal trespass to a vehicle, the circuit court stated that it found "very compelling the fact that there was a broken side window, that there was shattered glass *strewn throughout the car* ***." (Emphasis added.) However, Officer Pulia testified that the glass shards were confined to the right "[p]assenger's side of the vehicle, rear seat, and on the floor."

¶ 18 Given that that respondent was one of three passengers in the rear of the vehicle and there was no evidence as to where exactly he was seated or which door he used to enter or exit the SUV, we find that the broken window cannot be deemed an obvious sign that the car was stolen and does not establish the knowledge requirement necessary to sustain the court's delinquency adjudication. See, *e.g.*, *Wilder*, 46 Ill. App. 3d at 510-11 (reversing a circuit court order adjudicating the minor delinquent of criminal trespass to motor a vehicle where "the only evidence linking respondent to the commission of the offense [wa]s his physical presence in the vehicle," which contained no obvious signs that indicated that it was stolen); see also *Owes*, 5 Ill. App. 3d at 938 (reversing two defendants criminal trespass to a motor vehicle convictions where the vehicle bore no evidence of a forced entry and thus "there were no reasonable indication the car was stolen or was being driven by a person not lawfully in possession" of the vehicle at the time of entry). Similarly, although a respondent's flight from police may be considered to be circumstantial evidence of consciousness of guilt (*In re M.L.*, 232 Ill. App. 3d 305, 308 (1992)), we find that respondent's flight from the vehicle after it was abandoned by the driver does not, in this case, establish that he was aware that the SUV was stolen at the time of entry. Rather, based on the record, we find that respondent's presence in Escarayan's SUV more than 24 hours after it had been stolen is insufficient to establish he had the requisite knowledge to sustain the court's order adjudicating him delinquent of the offense of criminal trespass to a motor vehicle.

¶ 19 CONCLUSION

¶ 20 Accordingly, the judgment of the circuit court is reversed.

¶ 21 Reversed.