SIXTH DIVISION
March 31, 2015

No. 1-14-3662

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF P.L., a Minor	)	Appeal from the
	)	Circuit Court of
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	Cook County
	)	
Petitioner-Appellee,	)	
	)	No. 14 JD 2326
v.	)	
	)	
P.L., a Minor,	)	Honorable
	)	Stuart F. Lubin,
Respondent-Appellant).	)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: We reversed respondent's adjudication of delinquency for criminal trespass to a vehicle, finding that the State failed to prove him guilty beyond a reasonable doubt.

¶ 2 Respondent, P.L., appeals from his adjudication of delinquency and dispositional order of probation following a finding of guilt entered against him for the offense of criminal trespass to a vehicle. We reverse.

¶ 3 On June 16, 2014, the State filed a petition for adjudication of wardship against respondent, a 14-year-old minor, alleging he committed criminal trespass to a vehicle by knowingly and without authority entering Dominique Bennett's 2000 Dodge Caravan.

¶ 4 At the bench trial, Dominique Bennett testified she was 24-years old, and that on May 23, 2014, she owned a 2000 Dodge Caravan with the license plate number 278R688. At about 8 a.m. on May 23, 2014, Ms. Bennett loaned the van to her friend, Kyneshia Blount, and gave her the keys. Ms. Bennett did not give anyone, other than Ms. Blount, permission to use the van. The van was in good condition, with no damage to the steering column, and no wires were hanging from the steering column.

¶ 5 Kyneshia Blount testified that she lives with Ms. Bennett. On May 23, 2014, Ms. Blount borrowed Ms. Bennett's 2000 Dodge Caravan; Ms. Bennett gave the keys to the vehicle to her. There was no damage to steering column of the Dodge Caravan and there were no wires hanging from the steering column. Ms. Blount drove the Dodge Caravan to the Christian Lawndale Health Center, located at 3517 West Arthington Street in Chicago, and parked there between 3:30 and 4 p.m. Ms. Blount locked the van, took the keys to the vehicle with her, and went into the health center. Ms. Blount gave no one else permission to use the van. Between 5:30 and 6 p.m., Ms. Blount left the health center and boarded a bus to go to a baby shower. At that time, the van was still in the parking lot.

¶ 6 Officer Zohaib Zaib testified he was on duty with Officers Stephen Chatterjee and Walter Lagotto at 9 p.m. on May 23, 2014. Officer Zaib was driving a marked police vehicle in the area of 3600 West 16th Street in Chicago when he saw a 2000 Dodge Caravan, travelling at a high rate of speed, northbound on Millard Avenue. Officer Zaib activated his lights and siren in order to pull over the vehicle. Instead of stopping, the Dodge Caravan turned right at an alley and began speeding up. The officers pursued the vehicle. During the pursuit, Officer Zaib saw the driver-side door of the Dodge Caravan open up as if the persons inside "were going to bail out of the car." Officer Zaib was able to see that the driver of the Dodge Caravan was a black male

with long, "bulky" braids. The driver of the van closed the door and the officers remained in pursuit.

¶ 7 Officer Zaib testified that the Dodge Caravan crashed at 3602 West 16th Street and four people exited the vehicle from the passenger-side sliding door. Three of the persons had short hair, while the driver had "medium-length braids." Officer Zaib identified the driver as codefendant, L.W. Officer Zaib grabbed L.W., but the three other occupants fled. Officer Chatterjee pursued and apprehended one of the occupants, whom Officer Zaib identified in court as respondent.

¶ 8 Officer Zaib looked inside the Dodge Caravan and saw that the steering column had been damaged and that wires were coming out of it. There were no keys inside the vehicle. Officer Zaib saw "tools, screwdrivers and stuff" in the van. Officer Zaib did not find any keys in L.W.'s possession.

¶ 9 Following Officer Zaib's testimony, the State rested and respondent moved for a directed finding, which the trial court denied. Defense counsel then called respondent to testify.

¶ 10 Respondent testified he was 15-years old at the time of trial and in the 10th grade. At about 9 p.m. on May 23, 2014, respondent was with L.W. at Homan Avenue and Roosevelt Road when they saw respondent's cousin, Pablo, and Pablo's friend, who was nicknamed "Duct Tape," in a Dodge Caravan. Pablo was seated in the passenger seat and Duct Tape was driving. Pablo told respondent and L.W. to "get in." Respondent entered the Dodge Caravan through the sliding doors and sat behind Pablo on the passenger side. L.W. sat on the driver side behind Duct Tape.

¶ 11 Respondent testified that when he entered the vehicle, he did not know it was stolen, and he did not look to see if there were keys in the ignition or if there were any wires hanging from the steering column.

¶ 12 Respondent testified that after driving around for about a half hour, a police vehicle came up behind them and turned on its lights. Instead of stopping, Duct Tape speeded up. Respondent told Duct Tape to slow down, but Duct Tape did not listen and, instead, continued driving fast. Duct Tape eventually turned onto 16th Street and struck a pole, after which respondent exited the Dodge Caravan through the sliding door and was arrested.

¶ 13 The trial court found respondent guilty of criminal trespass to a vehicle. After making a finding of best interest and wardship, the trial court sentenced respondent to: one year of probation; mandatory school attendance; 30 hours community service; no contact with the witnesses; mandatory participation in the community impact and juvenile advisory counsel; and adherence to all TASC recommendations. Respondent was ordered to abstain from joining a gang or associating with known gang members.

¶ 14 Respondent appeals, contending the State failed to prove him guilty of criminal trespass to a vehicle beyond a reasonable doubt. "When considering a challenge to the sufficiency of evidence, a reviewing court applies a reasonable doubt standard. [Citation.] The reasonable doubt standard applies in delinquency proceedings, requiring the State to prove the elements of the substantive offenses alleged in the delinquency petitions beyond a reasonable doubt. [Citation.] The reasonable doubt standard asks whether, 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." *In re Jonathon C.B.*, 2011 IL 107750, ¶ 47.

¶ 15 The statute under which respondent was charged states: "A person commits criminal trespass to vehicles when he or she knowingly and without authority enters any part of or operates any vehicle." 720 ILCS 5/21-2 (West 2014). A prior version of the statute provided that a person commits criminal trespass to vehicles when he "knowingly and without authority

enters any vehicle *** or any part thereof of another without his consent." Ill. Rev. Stat. 1973, ch. 38, par. 21-2. Case law interpreting the prior version of the statute held that "[i]dentity of the vehicle is a material element of the crime," meaning the State must prove that the vehicle which respondent entered into was the same vehicle described in the charging instrument. See *People v. Acevedo*, 5 Ill. App. 3d 968, 970 (1972); *People v. Bunch*, 36 Ill. App. 3d 235, 237 (1976). Respondent argues that the two versions of the statute are substantively identical and, as such, the case law holding that the State must prove identity of the vehicle remains good law, and that the State failed to meet its burden.

¶ 16 We agree with respondent that both versions of the statute are substantively identical, even though the current version deleted language from the earlier version that a trespasser is one who knowingly enters the vehicle "of another without his consent." This deleted language is superfluous to the remaining language in the current version describing a trespasser as one who knowingly "and without authority enters *** any vehicle"; one can only enter a vehicle "without authority" when the vehicle belongs to another who has not consented to the trespasser's entrance. Accordingly, the current version of the statute remains substantively the same as the earlier version. Therefore, *Acevedo* and *Bunch* remain good law, pursuant to which the State was required to prove the identity of the 2000 Dodge Caravan which respondent was alleged to have trespassed, *i.e.*, that it was the same 2000 Dodge Caravan described in the charging instrument as the property of Dominique Bennett.

¶ 17 Our review of the record indicates no evidence was presented at trial that the 2000 Dodge Caravan with the wires hanging from the steering column, which respondent was alleged to have trespassed (hereinafter, respondent's vehicle), was the same 2000 Dodge Caravan belonging to Ms. Bennett (hereinafter, Ms. Bennett's vehicle). Ms. Bennett testified her vehicle was in good

working condition on May 23, 2014, that there was no damage to the steering column, and that there were no wires hanging from the steering column when she lent it to her roommate, Kyneshia Blount. Ms. Bennett never testified that her vehicle went missing or was stolen on May 23, 2014, or that she ever saw it with wires hanging from the steering column. Ms. Bennett also never testified to seeing respondent enter her vehicle on May 23, 2014, and she never identified respondent's vehicle as being hers.

¶ 18 Ms. Blount testified she borrowed Ms. Bennett's vehicle on May 23, 2014, that the steering column was in good condition, and that there were no wires were hanging from the steering column. Ms. Blount testified she drove Ms. Bennett's vehicle to the Christian Lawndale Health Center, parked it there, and left on a bus to go to a baby shower; Ms. Blount never testified that Ms. Bennett's vehicle subsequently went missing, or was stolen, or that she ever saw it with wires hanging from the steering column. Ms. Blount never testified to seeing respondent enter Ms. Bennett's vehicle, and she never identified respondent's vehicle as being Ms. Bennett's vehicle.

¶ 19 Ms. Bennett testified as to her vehicle's license plate number; however, no evidence was entered at trial as to the license plate number of respondent's vehicle and, thus, there was no evidence that the license plates matched. Officer Zaib never testified to running a check on the license plate of respondent's vehicle and he never testified that respondent's vehicle and Ms. Bennett's vehicle were the same.

¶ 20 There was no testimony as to the VIN numbers of Ms. Bennett's vehicle or respondent's vehicle and, thus, no testimony that those numbers matched.

¶ 21 The State did not introduce a certificate of title for respondent's vehicle to establish Ms. Bennett's ownership.

¶ 22 Neither Ms. Bennett nor Ms. Blount testified to the color of Ms. Bennett's vehicle nor to any distinguishing marks or features which would serve to identify it as respondent's vehicle.

¶ 23 In short, the record only indicates that Ms. Bennett's vehicle and respondent's vehicle were of the same year, make, and model; such evidence, without more, is insufficient to identify the vehicles as being one and the same.

¶ 24 *People v. Hope*, 69 Ill. App. 3d 375 (1979), is instructive. In *Hope*, the appellate court reversed defendant's convictions of theft and possession of a stolen vehicle, holding that the evidence that defendant was driving a vehicle of the same year, make, model, and color as the victim's van, which had damage to one side of the vehicle similar to the victim's van, was not sufficient to show that the vehicles were the same in the absence of more direct evidence, such as matching VIN numbers. *Id*. at 380-81. In the present case, there was even less evidence than in *Hope* that the vehicles were the same, as there was only evidence that they shared the same year, make, and model, but there was no evidence of matching color or matching damage. Thus, the State failed to prove the material element that the vehicle of which respondent was accused of trespassing, was the same as the vehicle identified in the charging instrument.

¶ 25 Accordingly, we must conclude that, even when viewing the evidence in the light most favorable to the State, no rational trier of fact could have found that the State proved respondent guilty of criminal trespass to a vehicle beyond a reasonable doubt.

¶ 26 For the foregoing reasons, we reverse respondent's adjudication of delinquency for criminal trespass to a vehicle. As a result of our disposition of this case, we need not address respondent's other argument.

¶ 27 Reversed.