

No. 1-14-1460

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the |
| |) | Circuit Court of |
| Plaintiff-Appellee, |) | Cook County. |
| |) | |
| v. |) | No. 13 CR 13617 |
| |) | |
| DICK JONES, |) | Honorable |
| |) | Maura Slattery-Boyle, |
| Defendant-Appellant. |) | Judge Presiding. |

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Cunningham and Justice Connors concurred in the judgment.

O R D E R

¶ 1 *Held:* Defendant's conviction for attempted possession of a stolen motor vehicle affirmed where the State's evidence sufficiently established that the catalytic converter he was attempting to steal was an "essential part" of the vehicle, as defined in the Illinois Vehicle Code.

¶ 2 Following a bench trial, defendant Dick Jones was convicted of attempted possession of a stolen motor vehicle for attempting to steal a catalytic converter from a parked van. The trial

court sentenced defendant to five years' imprisonment. On appeal, defendant solely contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to establish that a catalytic converter is an "essential part" of a vehicle, as defined by the Illinois Vehicle Code (625 ILCS 5/1-118 (West 2012)). We affirm.

¶ 3 At trial, Clarice Hall testified that about 7:15 a.m. on July 5, 2013, she was on her front porch letting her dog out when defendant approached her and asked if a van parked on the street belonged to her. Hall replied that it was not her van. Defendant then asked her if she knew who the van belonged to, and she told him that she did not. Hall testified that she knew that the van belonged to someone who lived in the building next door, but did not know who. Defendant then told a man who was with him to go to the corner and keep watch, and defendant walked to the van carrying a black bag and lay on the ground underneath the vehicle. Hall then heard a sawing noise that sounded like defendant was cutting something underneath the van, and she called the police. As the police arrived, defendant got up from underneath the van while the man on the corner started to walk away, and the police detained both men. Hall told the officers that defendant was the man who had been sawing underneath the vehicle.

¶ 4 Chicago police officer Ochoa testified that he and his partner, Officer Ramos, responded to a radio call of a stripping of a vehicle in progress, and were given descriptions of one of the offenders and the vehicle. When they arrived at the scene, Officer Ochoa saw a gray van parked on the corner and saw defendant, who was wearing a black shirt and tan shorts, which matched the description of the offender in the radio call. Another man was with defendant. Officer Ochoa spoke with Hall, who identified defendant as the man she saw underneath the van. The officer looked underneath the van and saw the blade of an electric power saw leaning against a pipe that was part of the catalytic converter. He further observed that one end of the pipe had been

completely cut through and the other end was slightly damaged. Officer Ochoa also noticed that the back of defendant's shirt and hair had a lot of dirt and debris. Officer Ochoa spoke with the owner of the van, who told him that the van was in operating condition the last time he saw it, and that he did not give anyone permission to take anything from his vehicle.

¶ 5 David Lane testified that he owned a 2000 Oldsmobile Silhouette van with a particular license plate number. When Lane drove his van on July 4, 2013, it was in "perfect" operating condition, the engine was running quietly, and there was no damage to any pipes. The following morning, the police contacted him and asked him to look at his vehicle. Lane looked underneath his van and observed that one end of a pipe was cut through, and a saw was attached to the pipe. Lane told police that he did not give anyone permission to cut the pipe.

¶ 6 Lane further testified that later that evening, he drove his van to a repair shop to be fixed, and when he started the vehicle, it made a lot of noise. When Lane accelerated, the noise became louder, and due to the excessive noise, he was unable to accelerate to a normal rate of speed and had to drive with his hazard lights on. Although the repair shop was less than five minutes away, Lane had to repeatedly pull over to the side of the road to allow traffic to pass because too many cars were building up behind him. The mechanic told Lane that he could either have his catalytic converter welded back on, or replace it with a new universal model. Lane testified that he did not give anyone, and specifically not defendant, permission to remove his catalytic converter or to cut any pipes on his van. Following his testimony, the State presented certified title documents showing that Lane owned the subject vehicle.

¶ 7 In his motion for a direct finding, defense counsel argued that a catalytic converter is not an essential part of a vehicle as defined by section 1-118 of the Vehicle Code because it is not specifically included on the list of parts that appears in the statute. In response, the State argued

that the list in the statute is not all-inclusive, and pointed out that the statute includes items such as cassette players, compact disc players and T-tops, which are considered essential parts. The State asserted that the statute defines an essential part as an item of which its removal would substantially alter the vehicle's mode of operation. It further argued that, in this case, the testimony clearly showed that the attempted removal of the catalytic converter substantially altered the mode of operation of the van, and thus, it was an essential part. The State added that a catalytic converter is certainly more essential than a cassette player or T-tops. The trial court found that the State proved the elements of the offense and denied defendant's motion for a direct finding.

¶ 8 In announcing its ruling, the trial court noted that Lane testified that his vehicle had been in proper working order on July 4, 2013, and when he drove it to the repair shop the following day, it was sluggish, not operating correctly, had to be fixed, and was not in the same working order that it had been the day before. The court stated "I don't think it's arguable for anyone to say that a catalytic converter is less essential than a cassette player. A catalytic converter is absolutely crucial to the proper running of any motor vehicle." Accordingly, the trial court found that the State proved defendant guilty beyond a reasonable doubt of attempted possession of a stolen motor vehicle.

¶ 9 In subsequently denying defendant's motion for a new trial, the court stated that defendant attempted to take:

"what the court deems is a crucial part of the vehicle, the catalytic converter. Without it, the car cannot run. And the list is not exhaustive, it says in other essential parts or other material parts. Which is indisputable, a catalytic converter is an essential part of the vehicle in order for it to run."

The court then sentenced defendant to a term of five years' imprisonment.

¶ 10 On appeal, defendant solely contends that the State failed to prove him guilty beyond a reasonable doubt of attempted possession of a stolen motor vehicle because it failed to establish that a catalytic converter is an "essential part" of a vehicle, as defined by the Illinois Vehicle Code (625 ILCS 5/1-118 (West 2012)). Defendant concedes that "the evidence was undisputed that [he] was trying to remove a catalytic converter from someone else's van," but maintains that a catalytic converter is not an "essential part" because it does not appear on the itemized lists in the statute. Defendant claims that the trial court did not properly interpret the statute. Citing to the website www.cars.com, defendant asserts that because a catalytic converter serves to reduce vehicle emissions for the sake of air quality, it has nothing to do with the basic operation or performance of the vehicle, and thus, its removal would not substantially alter the vehicle's mode of operation.

¶ 11 The State responds that the evidence was sufficient to prove defendant guilty beyond a reasonable doubt because it established that the partial removal of the catalytic converter substantially altered the operation of the vehicle, and thus, under the plain language of the statute, the catalytic converter was an essential part of the vehicle. The State maintains that the list of essential parts in the statute is not exhaustive, and that it includes several parts that do not affect the ability to drive the car, such as sun roofs and stereos. The State also asserts that defendant's attempt to admit new evidence from the website www.cars.com is improper because it is outside the trial record.

¶ 12 As a threshold matter, we agree with the State that defendant's inclusion of information regarding the function of catalytic converters from the website www.cars.com is not properly before this court. It is well settled that this court is precluded from considering any new

information that was not before the trial court, and therefore, not part of the record on appeal.

People v. Heaton, 266 Ill. App. 3d 469, 476 (1994). Consequently, we give no consideration to this information contained in defendant's brief.

¶ 13 Turning to the issue on appeal, when defendant claims 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. Baskerville*, 2012 IL 111056, ¶ 31. This standard applies whether the evidence is direct or circumstantial, and does not allow this court to substitute its judgment for that of the fact finder on issues involving witness credibility and the weight of the evidence. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). "Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State." *Baskerville*, 2012 IL 111056, ¶ 31.

¶ 14 In a bench trial, the trial court is responsible for determining the credibility of the witnesses, weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences from therein. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). We will not reverse a criminal conviction 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).

¶ 15 Pursuant to section 4-103(a)(1) of the Vehicle Code, a person who is not entitled to the possession of a vehicle, or an essential part of a vehicle, is prohibited from receiving, possessing, concealing, selling, disposing, or transferring it, knowing it to have been stolen or converted. 625 ILCS 5/4-103(a)(1) (West 2012). In this case, to prove defendant guilty of attempted possession of a stolen motor vehicle (PSMV), the State was required to show that defendant, with the intent

to commit PSMV, and not being entitled to possession of an essential part of the vehicle, attempted to possess the catalytic converter from the 2000 Oldsmobile van owned by David Lane, knowing that the part was stolen or converted. 625 ILCS 5/4-103(a)(1) (West 2012); 720 ILCS 5/8-4 (West 2012).

¶ 16 Section 1-118 of the Vehicle Code defines "essential parts" as follows:

"Essential parts. All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation. "Essential parts" includes the following: vehicle hulks, shells, chassis, frames, front end assemblies (which may consist of headlight, grill, fenders and hood), front clip (front end assembly with cowl attached), rear clip (which may consist of quarter panels, fenders, floor and top), doors, hatchbacks, fenders, cabs, cab clips, cowl, hoods, trunk lids, deck lids, T-tops, sunroofs, moon roofs, astro roofs, transmissions of vehicles of the second division, seats, aluminum wheels, engines and similar parts. Essential parts shall also include stereo radios, cassette radios, compact disc radios, cassette/compact disc radios and compact disc players and compact disc changers which are either installed in dash or trunk-mounted.

An essential part which does not have affixed to it an identification number as defined in Section 1-129 adopts the identification number of the vehicle to which such part is affixed, installed or mounted." 625 ILCS 5/1-118 (West 2012).

Defendant asserts that the lists in this statute are all-inclusive, and because a catalytic converter is not specifically included on the lists, it is not considered an essential part. Consequently, he claims that the trial court did not properly interpret the statute when it found that the catalytic

converted was an essential part of the van. Whether the trial court properly interpreted the statute is a question of law that we review *de novo*. *People v. Almore*, 241 Ill. 2d 387, 394 (2011).

¶ 17 The primary rule of statutory construction is to ascertain and give effect to the intent of the legislature. *People v. McClure*, 218 Ill. 2d 375, 381 (2006). The best indicator of legislative intent is the language of the statute, and where possible, the court should give that language its plain and ordinary meaning. *Id.* at 382. The court must construe a statute as a whole so that no part is rendered meaningless or superfluous, and the court should not depart from the language of the statute by reading into it limitations, exceptions or conditions that conflict with the intent of the legislature. *Id.* Where the intent can be determined from the plain language of the statute, there is no need to resort to interpretive aids. *Id.*

¶ 18 In this case, we find that the trial court correctly interpreted the language in section 1-118 of the Vehicle Code, and that its finding that the catalytic converter was an essential part of the vehicle was proper. The plain language of the first sentence of the statute expressly provides, in relevant part, that essential parts include "[a]ll integral and body parts of a vehicle *** the removal, alteration or substitution of which would tend to *** substantially alter its *** mode of operation." (Emphasis added.) 625 ILCS 5/1-118. The statute then lists numerous parts that are "included" in the definition of "essential parts." Nothing in the plain language of the statute states or suggests that this is an all-inclusive list. In fact, at the end of the first list, the statute expressly states "engines and *similar parts*." (Emphasis added.) 625 ILCS 5/1-118. If we were to construe this list to be exhaustive, as defendant suggests, then we would be reading into it a limitation that does not exist.

¶ 19 Moreover, to accept defendant's interpretation of the statute, we would be required to completely ignore the first sentence, thereby rendering it meaningless and superfluous. This

sentence explicitly states that "essential parts" include *all* integral parts of a vehicle, which if removed or altered, substantially alter the vehicle's mode of operation. Accordingly, we find that the language of the statute clearly provides that there are additional integral parts of a vehicle that are considered essential parts that are not specifically listed in the statute, and the trial court's interpretation of the statute was proper.

¶ 20 Furthermore, the record shows that based on the evidence presented at trial, the trial court's finding that the catalytic converter was an essential part of the van was proper. David Lane testified that when he drove his van on July 4, 2013, it was in "perfect" operating condition, the engine was running quietly, and there was no damage to any pipes. The following day, after defendant cut the pipe to the catalytic converter, the van made a lot of noise when started, and that noise became louder as Lane accelerated. Lane testified that the noise was so excessive that he was unable to accelerate the van to a normal rate of speed and had to drive with his hazard lights on. Although the repair shop was less than five minutes away, Lane had to repeatedly pull over to the side of the road to allow other cars to pass because he was holding up traffic.

¶ 21 Viewing this evidence in the light most favorable to the State, we find that Lane's testimony was sufficient to allow the trial court to conclude that defendant's act of cutting the pipe to the catalytic converter substantially altered the van's mode of operation, and thus, that the catalytic converter was an essential part of the vehicle within the definition of section 1-118 of the Vehicle Code. Defendant concedes that the evidence was undisputed that he was apprehended by police while attempting to saw the catalytic converter off of the van. Consequently, the record shows that the evidence was sufficient for the trial court to further find that, based on defendant's attempt to possess the catalytic converter, he was proven guilty beyond a reasonable doubt of attempted possession of a stolen motor vehicle.

¶ 22 We note that in his brief, defendant refers to legislative history from 2013 where House Bill 3021 proposed an amendment to specifically add "catalytic converter" to the list of essential parts in section 1-118 of the Vehicle Code, and the Senate rejected that amendment, and instead, proposed an amendment to section 4-103 of the Vehicle Code, the PSMV statute. As defendant notes, neither of these amendments were passed into law. See 98th Ill. Gen. Assem., House Bill 3021, 2013 Sess. Regardless, based on our finding that the plain language of the statute clearly provides that "essential parts" includes all integral parts that substantially affect a vehicle's mode of operation, there is no need to resort to additional interpretive aids, such as legislative history. *McClure*, 218 Ill. 2d at 382.

¶ 23 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 24 Affirmed.