2016 IL App (1st) 143411-U

FIRST DIVISION
August 1, 2016

No. 1-14-3411

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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. 13 CR 21346
	)	
KENT PIRTLE,	)	Honorable
	)	Mary C. Roberts,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Cunningham and Justice Harris concurred in the judgment.

O R D E R

¶ 1 *Held*: Defendant's conviction for possession of a stolen motor vehicle affirmed over his contention that the State failed to prove beyond a reasonable doubt that he knew the vehicle he possessed was stolen.

¶ 2 Following a bench trial, defendant Kent Pirtle was convicted of possession of a stolen motor vehicle and sentenced based on his criminal background as a Class X offender to seven years' imprisonment. On appeal, defendant contends that the State failed to prove him guilty beyond a reasonable doubt because there was insufficient evidence to establish that he knew the vehicle he possessed was stolen. We affirm.

¶ 3 Defendant was charged with one count of possession of a stolen motor vehicle which alleged that he possessed a 2003, Jaguar S-Type, belonging to Kimya Murray, without being entitled to the possession of the vehicle, and knowing the vehicle to have been stolen or converted. 625 ILCS 5/4-103(a)(1) (West 2012).

¶ 4 At trial, Murray testified that on September 18, 2013, she drove her black, 2003, Jaguar S-Type to John Marshall High School (John Marshall) where she was employed as a paraprofessional and women's basketball coach. On that date, Murray left the school about 7 p.m. and exited the building through the back door. As Murray walked to her car, she noticed that she did not have the keys to her car. Murray "looked everywhere" for the keys, including inside the vehicle, but was unable to find them. About 10 p.m., the head of security at John Marshall drove Murray home.

¶ 5 The next day, September 19, 2013, Murray arrived at John Marshall about 7:50 a.m. and noticed that her car was "gone." Murray reported the missing vehicle to a police officer in the school. Murray testified that she did not give anyone permission to drive or take her car from the school. Murray also testified that she was not familiar with defendant and did not give him permission to use her car.

¶ 6 On cross-examination, Murray admitted that she could not recall if the keys to her car had been taken from her on September 18, 2013. Murray acknowledged that at no time did she see defendant or any other person inside her car.

¶ 7 Chicago Police Officer Menoni testified that about 8 a.m. on October 6, 2013[1], he was on patrol in uniform and in a marked squad car near the area of the 4700 block of West Jackson

[1] Although Officer Menoni testified that he was on patrol on August 6, 2013, the parties do not dispute, and the arrest report and information show, that the officer was on patrol on October 6, 2013.

Boulevard. There, Officer Menoni observed defendant driving a 2003, Jaguar S-Type "rapidly towards the stop sign on Kilpatrick [Avenue], at Jackson [Boulevard], and almost slam on his brakes to come to a complete stop at the stop sign." After seeing this, Officer Menoni "ran" the front license plate number of the Jaguar, and learned that the license plate number was registered to a different vehicle. Officer Menoni parked his squad car near the curb and allowed the Jaguar to pass, so he could again run the license plate number. Officer Menoni testified the Jaguar "avoided" him, but that he was able to drive his squad car behind the Jaguar. As he did so, the Jaguar parked "very rapidly" and defendant exited the vehicle from the driver's seat. Two other occupants also exited the vehicle. Officer Menoni again ran the license plate number of the Jaguar and again learned that the license plate number was registered to a different vehicle.

¶ 8 From a distance of about 15 to 20 feet, Officer Menoni, while still inside his squad car, asked defendant to whom the car he was driving belonged. Defendant replied that it was his friend's car. As Officer Menoni exited his squad car, defendant fled on foot. The two other occupants of the car did not flee. Officer Menoni detained the two occupants and issued a "flash message" containing defendant's description over the police radio. Officer Menoni then reported the vehicle identification number (VIN) of the Jaguar defendant was driving over his police radio and learned that the vehicle had been reported as stolen. Officer Menoni testified the Jaguar appeared "normal" with no visible damage to the car.

¶ 9 A short time after issuing the flash message, Officer Menoni learned that defendant had been detained. Assisting officers escorted defendant to the scene where Officer Menoni identified him as the driver of the Jaguar. Officers then took the vehicle into police custody and defendant was transported to the 11th District Police Station for processing. At the station, Officer Menoni, in the presence of two other officers, advised defendant of his *Miranda* rights.

Defendant then told Officer Menoni that he had purchased the Jaguar from "some little boy at Marshall [High School] who had stolen it." Officer Menoni testified that he did not recover the keys to the vehicle from defendant. Officer Menoni also testified that Murray identified the vehicle defendant was driving as her 2003, Jaguar S-Type that she reported as stolen on September 19, 2013.

¶ 10 On cross-examination, Officer Menoni admitted that he did not record or have defendant write down the statement defendant gave. Officer Menoni also admitted that he did not inquire further into the name of the "little boy" who defendant said sold him the vehicle. Officer Menoni acknowledged that he did not ask defendant where the keys to the car were located and that the keys were not found despite a search of the area where defendant was apprehended. Officer Menoni also acknowledged that the windows to the vehicle were not broken and that forensic technicians were not called to process the vehicle.

¶ 11 After entering into evidence certified vehicle records showing the 2003 Jaguar S-Type was registered to Murray, the State rested. Defendant did not present evidence in his defense.

¶ 12 The court found defendant guilty of possession of a stolen motor vehicle. In announcing its decision, the court noted that there was no impeachment of Murray's and Officer Menoni's testimony and that it found Officer Menoni's testimony credible. The court pointed out that Officer Menoni observed defendant for a period of time and that defendant fled on foot when Officer Menoni exited his squad car. The court stated that it could consider defendant's flight as evidence of his knowledge that the vehicle he was in was stolen and that defendant's statement to Officer Menoni at the police station was further evidence of defendant's knowledge that the vehicle was stolen. The court thus found that the knowledge element of the charged offense had been met.

¶ 13 On appeal, defendant contends that the State failed to prove him guilty of possession of a stolen motor vehicle beyond a reasonable doubt. Specifically, defendant claims that there was insufficient evidence from which a reasonable trier of fact could find beyond a reasonable doubt that he knew the vehicle was stolen.

¶ 14 When a defendant challenges the sufficiency of the evidence to sustain a conviction, the standard of review is whether after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Collins*, 214 Ill. 2d 206, 217 (2005). It is the responsibility of the trier of fact to resolve any inconsistencies and conflicts in the evidence and to draw reasonable inferences therefrom. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). A criminal conviction will be reversed only if the evidence is so unsatisfactory as to raise a reasonable doubt of guilt. *People v. Campbell*, 146 Ill. 2d 363, 375 (1992).

¶ 15 As relevant to this appeal, a person commits the offense of possession of a stolen motor vehicle when he possesses a vehicle without being entitled to the possession, knowing the vehicle to have been stolen. 625 ILCS 5/4-103(a)(1) (West 2012). In order to sustain a conviction for this offense, the State must prove beyond a reasonable doubt that: (1) defendant possessed the vehicle; (2) he was not entitled to possession of the vehicle; and (3) he knew the vehicle was stolen. *People v. Cox*, 195 Ill. 2d 378, 391 (2001). Defendant does not challenge the sufficiency of the evidence to establish the first two elements of the offense. Instead, he solely argues that the State did not prove beyond a reasonable doubt that he knew the vehicle he was driving was stolen.

¶ 16 Whether defendant has knowledge is a question of fact for the trier of fact to resolve. *People v. Abdullah*, 220 Ill. App. 3d 687, 690 (1991). Where, as here, possession has been

shown, a defendant's knowledge may be inferred from the surrounding facts and circumstances. *Abdullah*, 220 Ill. App. 3d at 691.

¶ 17 The facts presented at trial showed that defendant was driving the 2003 Jaguar S-Type. Officer Menoni testified that defendant "avoided" the officer's squad car and then parked "very rapidly" when the officer drove his squad car behind the Jaguar. Upon initial questioning by Officer Menoni, defendant inaccurately said the Jaguar belonged to his friend. As Officer Menoni exited his squad car, defendant fled on foot. See *People v. Smith*, 226 Ill. App. 3d 433, 436-37 (1992) and cases cited therein (flight from the stolen motor vehicle is evidence tending to show that defendant had knowledge the vehicle was stolen). After being apprehended and escorted to the police station, defendant told Officer Menoni that he had purchased the Jaguar from a "little boy at John Marshall [High School] who had stolen it." This evidence, when viewed in the light most favorable to the State, shows that defendant knew the Jaguar was stolen. Accordingly, we conclude that the evidence was not so unsatisfactory as to raise a reasonable doubt of defendant's guilt.

¶ 18 In reaching this conclusion, we are not persuaded by defendant's argument that because there was no physical damage to the car, and neither the car keys nor "theft tools" were recovered, the trial court erred in finding he had knowledge that the Jaguar was stolen. Defendant maintains that the only evidence the State provided to show that he knew the vehicle was stolen was his flight and his statement to Officer Menoni, which was not documented and therefore unworthy of belief.

¶ 19 Defendant's contentions are essentially asking us to reweigh the evidence in his favor and substitute our judgment for that of the trier of fact, which is not the role of this court. See *Abdullah*, 220 Ill. App. 3d at 693 ("A reviewing court has neither the duty nor the privilege to

substitute its judgment for that of the trier of fact"). A reviewing court will not reverse a conviction simply because defendant claims that a witness was not credible. *People v. Evans*, 209 Ill. 2d 194, 211-12 (2004). This aside, there is no requirement that a vehicle must be damaged in order to establish that defendant knew the vehicle was stolen, or that a defendant must be in possession of either the rightful owner's keys to the vehicle or tools commonly associated with vehicle theft. See *People v. Newell*, 259 Ill. App. 3d 819, 823 (1994) (Even though there was no visible signs of theft to a car, evidence was sufficient to establish defendant knew the car was stolen where he was in possession of the vehicle and failed to give a reasonable explanation for his possession).

¶ 20 We are likewise not persuaded by defendant's reliance on *People v. Mitchell*, 59 Ill. App. 3d 367 (1978). In *Mitchell*, this court reversed the defendant's conviction for criminal damage to property, finding the defendant's mere presence at the scene of the offense and flight therefrom was insufficient to establish his guilt beyond a reasonable doubt. *Mitchell*, 59 Ill. App. 3d at 368-69. Here, unlike *Mitchell*, defendant did not merely flee from the scene of the crime. Instead, defendant was found guilty of possession of a stolen motor vehicle based on his clear possession of the vehicle, flight from police, and statement to police that he purchased the vehicle from someone who had stolen it.

¶ 21 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 22 Affirmed.