2017 IL App (1st) 150894-U

No. 1-15-0894

Order filed September 18, 2017

First Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 08128
	)	
WILLIE TIDWELL,	)	Honorable
	)	Lawrence E. Flood,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE PIERCE delivered the judgment of the court.
Justices Simon and Mikva concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction is affirmed where the trial court did not abuse its discretion by admitting other-crimes evidence.

¶ 2 Following a bench trial, defendant, Willie Tidwell, was found guilty of three counts of possession of a stolen motor vehicle (PSMV) and two counts of unlawful possession of titles and registration and was sentenced to 24 months' probation. On appeal, defendant does not challenge the sufficiency of the evidence but contends that the trial court erred by allowing the State to

admit other-crimes evidence involving a 2008 PSMV charge and a 2009 driving under the influence (DUI) charge. We affirm.

¶ 3 The State charged defendant with three counts of PSMV and two counts of unlawful possession of titles and registration. Prior to trial, the State filed a "Motion to Admit Other Crimes Evidence," asking the court to allow the State to admit other-crimes evidence as substantive evidence in the instant case. The State sought to introduce defendant's 2008 PSMV arrest and his 2009 DUI arrest as evidence that he knew the vehicle was stolen and that the license plates on the vehicle and documentation he used to show ownership showed a common design or scheme.

¶ 4 The defense objected to the use of all of the other-crimes evidence on the grounds that the State had failed to show its relevance and, furthermore, any probative value would be substantially outweighed by the prejudicial effect. Ultimately, the trial court allowed the State to present evidence concerning the 2008 PSMV charge and 2009 DUI charge after finding the evidence was relevant to the issue of knowledge, absence of mistake, intent, and common design or scheme.

¶ 5 During the bench trial, Chicago police officer Clifford Russell testified that, on April 2, 2012, he was driving on South Kimbark when he observed a parked and unoccupied vehicle, a Ford Expedition. The car had Indiana dealer license plates that appeared altered, as there was a "scratched off area where the [validation] stickers were supposed to have been." The dealer plates were dated "09," meaning they were valid in the year 2009. Russell went to check the vehicle's public vehicle identification number (VIN), usually displayed "in the windshield of the dash," but there was an advertisement for a club "on the dash in such a way that you could not

read any of the VIN." Russell had the vehicle towed to have the "confidential VIN" checked so that ownership of car could be determined.

¶ 6 The next day, April 3, 2012, a man, identified in court as defendant, arrived at the police station and claimed to be the owner of the car. Russell, with another officer present, advised defendant of his *Miranda* rights and questioned him. Defendant presented a bill of sale which showed New Way Leasing sold the car to him for $8,807 in December 2009. Russell asked defendant why he had an Indiana dealer plate if the car was bought in Illinois, which he explained as an attempt to avoid paying Chicago or Illinois registration fees. Russell asked defendant "how he was able to buy an Expedition for only $8,000." Defendant "said that he bought the vehicle for such a low price because he believed it could have been a retag," *i.e.*, a vehicle with a VIN from a similar vehicle—usually obtained from a junkyard dashboard—so that the ownership of the vehicle is concealed. Similarly, defendant told Russell he had placed the advertisement in front of the VIN and scraped the validation stickers from the dealer plates in order to conceal the identity of the vehicle. Russell "ran" the VIN on defendant's bill of sale, found that the car was owned by another party, and arrested defendant.

¶ 7 Stan Rea, an auditor for American Road Services Company, testified that his employer was an administrator of insurance policies made by American Road Insurance Company to Ford dealerships. His job was to "investigate, evaluate, and negotiate claims." In March 2008, a dealership reported a 2008 Ford Expedition stolen and made an insurance claim to American Road Insurance. American Road Insurance paid the claim and received the title to the car in April 2008. In June 2008, Rea was notified that the car was at a tow yard in Indiana but, ultimately, American Road Insurance did not recover it there. In April or May of 2012, Rea

learned that American Road Insurance had recovered the car and taken it to Greater Chicago Auto Auction to be sold. American Road Insurance had not sold the car at any time between April 2008 and May 2012, and it had never given defendant permission to possess or control it. Rea testified that American Road Services would have been notified if American Road Insurance had sold or transferred the car's title between April 2008 and May 2012.

¶ 8 Indiana State Police trooper Khari Walton testified that, on June 21, 2008, he pulled a Ford Expedition over for speeding. Walton approached the vehicle and saw the driver, identified in court as defendant, was the only occupant. Walton asked for defendant's license and registration. Defendant provided his license, but explained that the Expedition was a "company vehicle" and he did not know where the registration was located. Walton ran the license and the car's Michigan license plates and found the license plates were registered to a Michigan Ford dealer. He ran the car's VIN and found it was reported stolen from Dearborn, Michigan. Defendant was arrested for PSMV, but Walton did not recall whether defendant was ever convicted. The car was towed to a tow yard.

¶ 9 Walton informed the owner, an insurance company, where it could pick up its vehicle. Ultimately, Walton received a call from the insurance company informing him that the car was no longer at the tow yard. Walton called the Chicago police department and gave them defendant's address.

¶ 10 Chicago police officer Mentor Jerome testified that, on December 19, 2009, he and his partner "curbed" a Ford Expedition that was parked at a bus stop and obstructing traffic. The driver, identified in court as defendant, was "slumped over the wheel." Jerome ran the Expedition's Illinois license plates, which were registered to a Ford Mustang in defendant's

name. Defendant was arrested for DUI, improper registration, and other offenses and the car was impounded.

¶ 11 David Viveros, a City of Chicago auto pound supervisor testified that, on December 14, 2009, a 2008 Ford Expedition was impounded as the result of a DUI. Searches of the vehicle's license plate number and VIN showed different owners: defendant and an insurance company. Both owners were notified of the vehicle's impoundment.

¶ 12 The vehicle was released from the auto pound to defendant on December 20, 2009. Viveros testified that, to get a vehicle released, a person must show photo identification and proof of ownership. Proof of ownership can be the car's title, registration, or a bill of sale.

¶ 13 The trial court found defendant guilty of three counts of PSMV and two counts of unlawful possession of titles and registration. It merged the PSMV charges together and merged the possession of titles and registration charges, leaving one count of each charge, and sentenced defendant to concurrent terms of 24 months' probation. Defendant filed a motion for reconsideration and/or new trial and argued that the trial court erred when it granted the State's motion to introduce other-crimes evidence. The court denied defendant's motion and this timely appeal followed.

¶ 14 On appeal, defendant argues that the trial court erred by allowing the State to present other-crimes evidence because it did not necessarily establish his knowledge the car was stolen and that he intended to conceal or misrepresent its identity and, even if it did, the State presented it in a way that was excessive and prejudicial. The State responds that the court properly allowed the admission of the other-crimes evidence because it demonstrated defendant knew that the car was stolen and concealed its identity and that the evidence was admitted for that limited purpose.

¶ 15 Evidence of other crimes is admissible if it is relevant for any purpose other than to show a defendant's propensity to commit crimes. *People v. Wilson*, 214 Ill. 2d 127, 135 (2005). Other crimes evidence may be admitted to show *modus operandi*, intent, motive, identity, or the absence of mistake. *People v. Pikes*, 2013 IL 115171, ¶ 11; see also Ill. R. Evid. 404(b) (eff. Jan. 1, 2011). Nevertheless, even if other-crimes evidence is admissible for such a purpose, the trial court may exclude it if the prejudicial effect of the evidence substantially outweighs its probative value. *Pikes*, 2013 IL 115171, ¶ 11; see also Ill. R. Evid. 403 (eff. Jan. 1, 2011) (relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice").

¶ 16 The determination of whether the probative value of other crimes evidence outweighs its prejudicial effect rests within the sound discretion of the trial court (*People v. Hale*, 2012 IL App (1st) 103537, ¶ 24), and the court's ruling will not be disturbed absent an abuse of that discretion (*People v. Ward*, 2011 IL 108690, ¶ 21). An abuse of discretion "occurs when the court's decision is arbitrary, fanciful, or unreasonable." *People v. Gwinn*, 366 Ill. App. 3d 501, 515 (2006).

¶ 17 In this case, the other-crimes evidence related to defendant's 2008 PSMV and 2009 DUI arrests and whether it was properly admitted to show defendant's knowledge the Expedition he was driving was stolen and he intended to conceal or misrepresent its identity. As relevant to the instant case, a person commits PSMV if he possesses or conceals a motor vehicle that he knows to be stolen or converted, or knowingly conceals or misrepresents a vehicle's identity. 625 ILCS 5/4-103(a)(1), (3) (West 2012). The three counts of PSMV alleged that defendant possessed the

Ford Expedition owned by American Road Insurance, knowing it was stolen, and concealed its identity by covering the VIN.

¶ 18 A person commits unlawful possession of titles and registration if he possesses "without authority" any vehicle title, "registration card, license plate, registration sticker or temporary registration permit," or possesses one which he knows to be "stolen, converted, altered, forged or counterfeited." 625 ILCS 5/4-104(a)(1), (3) (West 2012). The two counts of unlawful possession of titles and registration alleged that defendant possessed Indiana dealer plates without authority and knew they had been altered.

¶ 19 The other-crimes evidence was admitted for the purpose of showing defendant's knowledge. Walton testified that he arrested defendant in 2008 for driving the Michigan-plated Expedition that was registered to a Michigan Ford dealer and had been reported stolen. Mentor then testified that, in 2009, he arrested defendant for a DUI while he was driving the Expedition with Illinois plates belonging to another car. The Expedition was impounded and released to someone other than its owner in 2008 and was released to defendant in 2009, which Viveros testified required defendant to present proof of ownership. Then, in April 2012, defendant was arrested a third time while in possession of the now Indiana-plated Expedition. However, as Rea testified, the vehicle was owned by American Road Insurance from April 18, 2008, to May 2012. The 2008 and 2009 other-crimes evidence therefore supports the inference that defendant was aware the Expedition was stolen and that he was trying to conceal the car's identity. Accordingly, the trial court did not abuse its discretion in admitting evidence of these other acts.

¶ 20 Defendant also argues that the other-crimes evidence related to his 2008 PSMV and 2009 DUI was excessive and prejudicial. The State responds that the other-crimes evidence was not

excessive as it was limited to evidence of his knowledge that the Expedition was stolen and that he had intended to conceal or misrepresent its identity.

¶ 21 When evidence of other crimes is relevant, it must not become the focal point of the trial of the charged offense. *People v. Ross*, 395 Ill. App. 3d 660, 674 (2009). The trial court "should not permit a 'mini-trial' of the other, uncharged offense, but should allow only that which is necessary to 'illuminate the issue for which the other crime was introduced.' " *People v. Bedoya*, 325 Ill. App. 3d 926, 938 (2001) (quoting *People v. Nunley*, 271 Ill. App. 3d 427, 432 (1995)). "Courts' disinclination toward 'mini-trials' of collateral offenses is *** another application of the principle that evidence should not be admitted where it causes unfair prejudice, jury confusion, or delay." *People v. Walston*, 386 Ill. App. 3d 598, 619 (2008). The danger of a "mini-trial" is risking putting on a "trial within a trial," "with detail and repetition greatly exceeding what is necessary to establish the particular purpose for the evidence." *People v. Boyd*, 366 Ill. App. 3d 84, 94 (2006). In a bench trial, "it is presumed that the trial court considered the other-crimes evidence only for the limited purpose for which it was introduced." *People v. Nash*, 2013 IL App (1st) 113366, ¶ 24.

¶ 22 The record supports the State's position that other-crimes evidence was presented in a limited manner to "establish[] a chronological pattern of defendant's unlawful possession of the stolen motor vehicle and his scheme of switching license plates and offering different bills of sale" to conceal its identity. Although defendant notes that the evidence of his other crimes was more voluminous than that proving his current offense, that evidence was presented with the limited purpose of establishing defendant was on notice the car he was driving was stolen, a common fact in the earlier incident and current charge offenses, and that he took measures to

conceal its identity. The evidence was not repetitive, but merely reflected relevant circumstances that show defendant's knowledge the car was stolen and his continued attempts to misrepresent its ownership.

¶ 23 Accordingly, the trial court properly limited the other-crimes evidence in this case to the facts that would tend to establish defendant's knowledge the Expedition was stolen and to demonstrate his repeated efforts to conceal or misrepresent its identity by altering license plates and other documentation. The trial court did not abuse its discretion by admitting this evidence.

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

¶ 25 Affirmed.