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2018 IL App (3d) 180170-U

Order filed July 31, 2018

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2018

<i>In re</i> Z.P.,)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
a Minor)	Will County, Illinois,
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal No. 3-18-0170
)	Circuit No. 17-JD-522
v.)	
)	
Z.P.,)	Honorable
)	Paula A. Gomora,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice Carter and Justice McDade concurred in the judgment.

ORDER

¶ 1 *Held:* Respondent was proven guilty beyond a reasonable doubt.

¶ 2 Respondent, Z.P., appeals his adjudication of delinquency, arguing that he was not proven guilty of the offense of possession of a stolen vehicle. We affirm.

¶ 3 **FACTS**

¶ 4 On December 20, 2017, the Will County State’s Attorney’s office filed a petition alleging that Z.P., who was 17 years old, was delinquent. The petition alleged that on December 17, 2017, Z.P. committed the offense of possession of a stolen vehicle. 625 ILCS 5/4-103(a)(1) (West 2016); 705 ILCS 405/5-101 (West 2016). At a hearing on the petition, Mark Ramsey testified that he owned a 1996 Chevrolet pickup truck that did not have license plates on it. On December 17, 2017, he received a phone call that the truck was missing from his yard. He later retrieved the truck from Brown’s Towing. He had known Z.P. for three or four years. Z.P. had worked with Mark and knew Mark’s children. Z.P. did not have permission to use the truck.

¶ 5 Sean Wojtczak testified that he was a deputy with the Grundy County Sheriff’s office and was on duty on December 17, 2017. He was investigating a traffic accident on the side of the road at approximately 12:30 p.m. when a truck swerved and almost hit him. The driver, and sole occupant, of the truck was a male in his late teens. Wojtczak ended his accident investigation and began to pursue the truck. He continued to follow the truck and activated his emergency lights. The truck was traveling between 80 and 90 miles per hour on a country road. He “called it out on the radio and gave the license plate [number] that was displayed on the vehicle and stayed behind it.” He was radioed back and was told that “[t]he plate on the vehicle did not match that vehicle. It returned stolen.” Wojtczak continued to follow the truck, but at some point lost sight of it.

¶ 6 Sergeant Chris Harseim testified that he had worked for the Coal City Police Department for 24 years and was on duty on December 17, 2017. He was listening to his radio when he observed Z.P. in the truck as he went into a ditch. He knew Z.P. from his contacts with him in Coal City. He observed Z.P. drive into Will County from Grundy County.

¶ 7 Jason Bunch testified that he was a federal officer with the United States Forest Service. He was on duty on December 17, 2017, and heard a request for assistance on the radio from Grundy County in regards to a reckless driver. Bunch stated that he had jurisdiction to respond to such calls for assistance, so he responded to the area of the last known sighting of the driver. When he arrived, a Wilmington police officer was also present. Bunch spoke with a witness, but did not know his name. One of the Will County deputies reported over the radio that the vehicle had been located and requested that Bunch respond. The truck was in the middle of a cornfield off Stripmine Road and no one was inside.

¶ 8 Joe Keeley testified that on December 17, 2017, Bunch arrived at his mother's property. Keeley told Bunch that he had seen a truck driving down the road. He said,

“The pickup truck was in the ditch going back and forth, and then the pickup truck backed up on to the adjacent property owner's driveway and then went back into the ditch and once again out of the ditch it was driving recklessly up the road towards me, and I had stepped into the road in order to slow him down a little bit to see if I could get a license plate number ***.

* * *

*** He had pulled over to the right-hand-side of the road and started to turn to make a U-turn and he rolled the window down and I asked him what the hell he was doing, and he said I am just out cruising, and then he proceeded to spin the truck around and go back down the road. At that time I called the Wilmington Police Department.”

Keeley identified Z.P. as the driver of the truck.

¶ 9 Season Shumard testified that she was 18 years old and knew Z.P. through his cousin. On December 17, 2017, she saw him at 4 or 5 p.m. when she picked him up on the side of Stripmine Road with her friends Anna and Caleb. Z.P. sat in the backseat. They drove around for awhile and then she dropped him off at Caleb's house. On December 20, 2017, she was stopped by a Will County Sheriff's deputy. She had been driving to a gas station to meet Ashley Ramsey to give her keys that were found in her vehicle. She agreed to let the sheriff's deputy search her vehicle, and the deputies found the keys she was going to give to Ashley.

¶ 10 Robert Vuletic stated that he was a deputy for the Will County Sheriff. He was on duty on December 20, 2017, and was investigating the truck that had been found in the field. He pulled over Shumard and asked her if she knew Z.P., as he suspected he was the driver of the truck. He recovered the keys from Shumard's vehicle. The next day, he went to Brown's Towing as they were in possession of the truck. He accessed the cab of the truck and placed the key into the ignition. The key fit into the ignition and he attempted to start the truck, but the truck would not turn over.

¶ 11 Z.P. moved for a directed finding, which was denied. The parties stipulated that if Z.P. called any of the officers to testify they would state that a computer check of the VIN of the truck showed that it was registered to Tommy Hess. Z.P. presented no further evidence. After taking the matter under advisement, the court found the petition had been proven, stating,

“Given the positive identification of [Z.P.] as the driver of the truck during a course of conduct through multiple towns, the fact that [Z.P.] had access to the vehicle through his employment, Season Shumard's testimony that she picked [Z.P.] up off of Stripmine Road on December 17th and had possession of the keys that turned the ignition to the white pickup truck that was recovered from the field

off of Stripmine Road and that she was going to give them to Ashley Ramsey, Keeley's positive identification of [Z.P.] as the driver of the white truck, the Court finds [Z.P.] guilty of possession of a stolen motor vehicle."

The court sentenced Z.P. to an indeterminate term in the Department of Juvenile Justice.

¶ 12

ANALYSIS

¶ 13

On appeal, Z.P. argues that he was not proven guilty beyond a reasonable doubt where the State did not establish that he intended to permanently deprive Mark Ramsey of possession of his truck. Specifically, Z.P. argues that he could have merely intended to take a joyride and return the truck afterwards. Because the evidence showed that Z.P. had exclusive and unauthorized possession of the truck, it could be inferred that he intended to permanently deprive Mark of its use and enjoyment. Therefore, taking the evidence in the light most favorable to the State, Z.P. was proven guilty beyond a reasonable doubt of possession of a stolen vehicle.

¶ 14

When reviewing a challenge to the sufficiency of the evidence, we consider the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *In re D.H.*, 381 Ill. App. 3d 737, 740 (2008). In order to be convicted of possession of a stolen vehicle, the State had to prove (1) Z.P. possessed the vehicle, (2) he was not entitled to possess the vehicle, and (3) he knew that the vehicle was stolen. See *People v. Alvine*, 173 Ill. 2d 273, 296 (1996); 625 ILCS 5/4-103(a)(1) (West 2016). To prove the third element, the State also had to show that a theft occurred, in that Z.P. intended to permanently deprive the owner of the use and benefit of the vehicle. *People v. Bivens*, 156 Ill. App. 3d 222, 230 (1987). Here, Z.P. does not challenge that the first two elements were proven beyond a reasonable doubt. Instead, he solely argues that the State did not prove that he intended to permanently deprive Mark Ramsey of the use and

benefit of the truck. Specifically, Z.P. argues that his possession of the truck was more indicative of joyriding than theft.

¶ 15 Section 4-103(a)(1) of the Illinois Vehicle Code (Code) specifically states, in pertinent part, “It may be inferred *** that a person exercising exclusive unexplained possession over a stolen or converted vehicle *** has knowledge that such vehicle *** is stolen ***.” 625 ILCS 5/4-103(a)(1) (West 2016). Moreover, our supreme court has stated, “[T]he intent to deprive an owner of his property may be inferred simply from the act of taking another’s property. Likewise, it may be inferred from the lack of evidence of intent to return the property or to leave it in a place where the owner could safely recover it.” *People v. Adams*, 161 Ill. 2d 333, 343-44 (1994) (“Although [defendant] claimed that he intended to return the car to Valerie after using up all the gas, the trier of fact was not required, in light of the totality of the circumstances shown by the evidence, to accept his version of the facts. The totality of the circumstances here support a conclusion that Adams possessed the requisite intent and that he possessed that intent *** where he took exclusive and unauthorized possession of the car.”).

¶ 16 Here, Z.P. exercised exclusive and unauthorized possession of the truck. Wojtczak, Harseim, and Keeley all testified that they observed Z.P. driving in the truck, alone. Mark testified that Z.P. did not have permission to drive the truck. Based on these facts alone, it can be inferred that Z.P. intended to permanently deprive Mark of the truck. *Id.*; 625 ILCS 5/4-103(a)(1) (West 2016). Z.P. further drove the truck into a field and was then picked up by Shumard. The keys to the truck were then found in her vehicle. Though Z.P. points to the facts that he knew Mark and told Keeley that he was “just out cruising” as evidence that he was joyriding, the totality of the circumstances supports the conclusion that Z.P. possessed the

requisite intent. Taking the evidence in the light most favorable to the State, a rational trier of fact could have found all the essential elements beyond a reasonable doubt.

¶ 17 In coming to this conclusion, we note that the cases Z.P. cites in which the court found that the State did not prove that the defendant intended to permanently deprive the owner of the use and enjoyment of the vehicle are all factually distinguishable. In *Bivens*, 156 Ill. App. 3d at 230-31, the defendant commandeered the vehicle, but the owner remained inside. A short time later, the defendant exited the vehicle, left, and the owner drove the vehicle toward his house. *Id.* Here, the owner of the car did not remain in the vehicle. In *In re T.A.B.*, 181 Ill. App. 3d 581, 586 (1989), the respondent took his foster father's vehicle without permission and drove it around their residential area for some time before hitting a telephone pole. Though Z.P., here, knew Mark, he did not have a familial or household relationship with him. In *People v. Woods*, 17 Ill. App. 3d 835, 838 (1974), the defendant pled guilty, but told the judge that he was going joyriding. The court on appeal solely held that the circuit court should not have accepted the plea "without inquiring further to determine [whether] the defendant possessed the requisite intent to commit the alleged offense." *Id.*

¶ 18 CONCLUSION

¶ 19 The judgment of the circuit court of Will County is affirmed.

¶ 20 Affirmed.