

No. 1-12-2578

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. 11 CR 21273
)	
CHARLES REED,)	Honorable
)	Clayton J. Crane,
Defendant-Appellant.)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Howse and Justice Epstein concurred in the judgment.

O R D E R

- ¶ 1 *Held:* Defendant's conviction for burglary is affirmed where the circumstantial evidence, viewed in the light most favorable to the prosecution, was sufficient to establish intent to commit a theft in the building where defendant was found by the police.
- ¶ 2 Following a bench trial, defendant Charles Reed was convicted of burglary and, based on his prior convictions, sentenced to a Class X term of six years in prison. On appeal, defendant challenges the sufficiency of the evidence. In particular, defendant argues that this court should

reduce his conviction to criminal trespass because the State failed to prove that he intended to commit a theft inside the building where the police found him. For the reasons that follow, we affirm.

¶ 3 At trial, Chicago police officer Agustin Torres testified that about 11:30 p.m. on December 4, 2011, he and his partner, Officer Chris Savickas, received a radio call of a suspicious vehicle in the area of 40 East Garfield Blvd., which Officer Torres described as an "old bread company" complex that took up the entire block. Specifically, the call reported that a white van was circling the block. The officers went to the given address, where they curbed the van and spoke with its driver, a man identified as Rodney Sisson. At this point, a security guard, Thomas Lambert, approached the officers. Lambert showed the officers a four-by-five-foot vent on the west side of the building that had been pried open. The vent led into the building.

¶ 4 Using his keys, Lambert unlocked the building and took the officers into the electrical room, which was in the southwest part of the building. There, Officer Torres observed numerous copper plates lined up and stacked against a wall, rolled up wire, and tools, including wrenches and wire cutters. Officer Torres noted that there was no power on in the building.

¶ 5 Officer Torres testified that he and his partner left the building and called for a K-9 unit to conduct a systematic search. When the K-9 unit and other officers arrived, they began their search on the southern part of the building, moving north. As Officer Torres searched a parking garage, another officer yelled out, and Officer Torres heard "running" above him. While Officer Savickas climbed out a window to get to the roof, Officer Torres moved on to a storage area where there were large wheeled food carts. He looked under one of the carts and saw defendant. At Officer Torres' direction, defendant came out from under the cart. He was immediately

placed in custody. Officer Torres estimated that the search of the building took about an hour and 45 minutes.

¶ 6 Chicago police officer Chris Savickas testified that about 11:30 p.m. on the night in question, he and Officer Torres responded to a radio call reporting that a white van was circling the block at 40 East Garfield Blvd. They curbed the van, spoke with the driver, Rodney Sisson, and placed him in custody. While the officers were talking with Sisson, they were approached by Thomas Lambert. After Lambert let the officers into the building, they began a systematic search, assisted by other officers. At one point, Officer Savickas was in a parking garage area and heard his sergeant say something over the radio. As a result of the radio message, Officer Savickas "exited the building on the second floor onto the roof." There, he saw codefendant, L.C. Dabbs, run across the roof and jump off. When Officer Savickas looked over the edge, he saw codefendant lying on the ground.

¶ 7 Officer Savickas testified that he was not present when defendant was placed in custody, but came in contact with him on the scene some time later. Officer Savickas gave defendant *Miranda* warnings and asked him questions. Officer Savickas testified, "I asked [defendant] what his involvement was with the white van that we stopped Mr. Sisson in, and he stated that he was waiting for them to finish up inside." When asked to clarify, Officer Savickas stated, "[Defendant] said that the van was waiting for them to finish up inside." On cross-examination, Officer Savickas acknowledged that in the arrest report, he wrote that defendant "said there was a white van waiting outside for proceeds." On redirect, he agreed that the arrest report was a summary, that defendant's statement was not presented in quotation marks, and that he paraphrased defendant's statement.

¶ 8 Ghian Foreman, part owner and managing partner of a redevelopment corporation, testified that he regularly worked at the building in question from about 7 a.m. until 6 p.m. In the morning, he would unlock the doors and do a walk-through of the building. At the end of the day, he would do another walk-through to make sure no one was in the building, and then lock the doors.

¶ 9 When Foreman left the building on the evening in question, all the doors, windows, and garage doors were locked and secure. Later that night, he received a phone call from the security guard reporting that a van was driving around and some people were in the building. After contacting the police, Foreman drove to the building. Foreman testified that about 12 police officers were already there, and he saw codefendant lying on the sidewalk. He also saw that an approximately six-by-four-foot vent on the west side of the building was bent upwards. The vent led to the boiler room.

¶ 10 Foreman testified that once inside the building, he noticed that the lights were off, even though the lights were to remain on all the time. In the electrical room, he saw wiring and copper plates stacked up, and noticed tools he had not seen before. Foreman explained that when he left the building earlier that evening, the copper plates had to have been in the electrical box because they served to conduct electricity and the lights would not work without them in place. Foreman testified that he walked through the entire building and observed that the windows and doors were all locked and secure. He did not give defendant or codefendant permission to be inside the building.

¶ 11 The trial court found defendant guilty of burglary and subsequently sentenced him, based on his prior convictions, to a Class X term of six years in prison.

¶ 12 On appeal, defendant challenges the sufficiency of the evidence. In particular, defendant argues that his conviction should be reduced to criminal trespass because the State failed to prove beyond a reasonable doubt that he intended to commit a theft inside the building. He asserts that no evidence linked him to the copper plates and wires that were removed in the electrical room or any of the tools found there; that no one saw him anywhere near the electrical room and it took the police an hour and 45 minutes to get from the electrical room to the location where he was discovered; that no proceeds or burglary tools were found on his person; that no forensic evidence, such as fingerprints, linked him to the copper plates, wires, or tools; and that he did not exhibit a guilty conscience when approached by the police, as he did not attempt to flee or resist arrest. Finally, while acknowledging that Officer Savickas testified to an incriminating statement, he argues that Officer Savickas did not memorialize the statement, gave no information about where or when the statement was made, and "contradicted himself about what [defendant] actually said." Defendant argues that the statement regarding the van's driver "waiting for them to finish up inside" is not incriminating, as "it could mean waiting to finish up doing any number of things: warming up from the cold winter night, sleeping, exploring, etc." Defendant also argues that the statement about the van's driver waiting for proceeds is not incriminating in that it does not establish what proceeds the driver was waiting for or from whom those proceeds were going to be delivered.

¶ 13 When reviewing the sufficiency of the evidence, the relevant inquiry is whether, after 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. *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979). Under this standard, a reviewing court must allow all

reasonable inferences from the record in favor of the prosecution. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). The credibility of the witnesses, the weight to be given their testimony, and the resolution of any conflicts in the evidence are within the province of the trier of fact, and a court of review will not substitute its judgment for that of the trier of fact on these matters. *People v. Brooks*, 187 Ill. 2d 91, 131 (1999). Reversal is justified only where the evidence is "so unsatisfactory, improbable or implausible" that it raises a reasonable doubt as to the defendant's guilt. *People v. Slim*, 127 Ill. 2d 302, 307 (1989).

¶ 14 To prove burglary in the instant case, the State was required to show that defendant, without authority, knowingly entered or remained within the building with intent to commit therein a felony or theft. 720 ILCS 5/19-1(a) (West 2010). The elements of burglary, including the requisite intent, may be proved by circumstantial evidence, *i.e.*, "facts and circumstances from which the trier of fact may infer other connected facts which reasonably and usually follow according to common experience." *People v. Smith*, 2014 IL App (1st) 123094, ¶ 13. It is the responsibility of the trier of fact to draw reasonable inferences from basic facts to ultimate facts. *Id.* In determining whether an inference is reasonable, the trier of fact is not required to look for all possible explanations consistent with innocence or "be satisfied beyond a reasonable doubt as to each link in the chain of circumstances." *Id.*, quoting *People v. Wheeler*, 226 Ill. 2d 92, 117 (2007). Rather, it is sufficient if all the evidence, taken as a whole, satisfies the trier of fact that the defendant is guilty beyond a reasonable doubt. *Smith*, 2014 IL App (1st) 123094, ¶ 13.

¶ 15 Viewed in the light most favorable to the prosecution, the circumstantial evidence in this case established intent to commit a theft sufficient to sustain defendant's conviction for burglary. Copper plates and wires had been removed from an electrical box and stacked up next to tools

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such as wrenches and wire cutters. After observing these items, the police searched the property and found defendant hiding under a food cart. Defendant then gave a statement to the police, indicating that the driver of the van circling the block was waiting for him and codefendant to "finish up inside" and was waiting for proceeds. We agree with the State that from these circumstances, the trial court could reasonably infer that defendant was in the building trying to steal the copper wires and plates, but was caught before he could get out of the building undetected. Accordingly, defendant's challenge to the sufficiency of the evidence fails.

¶ 16 For the reasons explained above, we affirm the judgment of the circuit court of Cook County.

¶ 17 Affirmed.