

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).

2012 IL App (3d) 110340-U

Order filed October 9, 2012

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF) Appeal from the Circuit Court
ILLINOIS,) of the 10th Judicial Circuit,
) Peoria County, Illinois,
Plaintiff-Appellee,)
) Appeal No. 3-11-0340
v.) Circuit No. 09-CF-1220
)
CLAYTON GLASPER,) Honorable
) Glenn H. Collier,
Defendant-Appellant.) Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Lytton and McDade concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence was sufficient to prove defendant guilty of burglary beyond a reasonable doubt.

¶ 2 After a bench trial, defendant, Clayton Glasper, was convicted of burglary (720 ILCS 5/19-1(a) (West 2008)) and sentenced to 30 months' probation. On appeal, defendant argues that the State failed to prove beyond a reasonable doubt that he entered Corbin Parker's vehicle with the intent to commit a theft. We affirm.

¶ 3

FACTS

¶ 4 On November 17, 2009, defendant was charged by indictment with burglary, criminal trespass to a residence, and domestic battery. At defendant's bench trial, police sergeant Ronald Hartzell testified that he was called to the home of Evelyn Glasper¹ in the early morning hours of November 1, 2009. At the scene, Hartzell noted that defendant was upset over child custody issues and said that his estranged wife was seeing another man. Hartzell spoke with Evelyn inside the home and arrested defendant afterwards for domestic battery.

¶ 5 Following the arrest, defendant admitted to Hartzell that he went into Evelyn's garage and found a car that he did not recognize. He took photographs of the vehicle's license plate and removed three health club identification cards and a bank deposit slip from the car. Hartzell found the health club cards and bank receipt in defendant's coat pocket. Defendant asked Hartzell to investigate Parker, the owner of the car he discovered in Evelyn's garage. Parker was not at the scene, but Hartzell contacted Parker after defendant's arrest.

¶ 6 Before transporting defendant to the Peoria County jail, Hartzell asked defendant if he had a wallet. Defendant replied that it was in his "man bag" in the trunk of his car. Hartzell opened defendant's trunk and noticed a black leather briefcase, which he initially thought was defendant's "man bag." Inside, he found a laptop, but he did not find defendant's wallet. Hartzell left the bag in the trunk and located a duffle bag that contained defendant's wallet.

¶ 7 Later, Hartzell interviewed Parker. Parker told Hartzell that a laptop was missing from his car. Sergeant Shawn Wetzel executed a search warrant on defendant's car and recovered Parker's laptop.

¹Defendant and Evelyn have since divorced.

¶ 8 Parker testified that he owned a visual arts studio, and on the night of the incident, he was working an event at a skating rink. His camera bag, laptop bag, and other equipment were in his car. Parker stopped at Evelyn's house before the event because he was remodeling his bathroom and he needed to use her shower. He parked his car in Evelyn's garage.

¶ 9 As Parker was getting out of the shower he heard "a bunch of wrestling," and he saw Evelyn screaming and trying to pull the window down while defendant was trying to open it. After Evelyn got the window closed, Parker told her to call the police and he raced home, fearing that defendant would try to break into his house next.

¶ 10 Parker stated that the health club cards and bank receipt that Hartzell recovered were located inside his car on the night of the incident. Parker did not give defendant permission to remove these items, and after he met with Hartzell he noticed that a laptop was also missing from his car.

¶ 11 Defendant testified that he drove by Evelyn's house around midnight on November 1, 2009. Defendant thought it was suspicious that Evelyn's car was parked outside of the garage, and he stopped to investigate. Defendant walked into the garage and saw a vehicle that he did not recognize. He took a picture of the vehicle and the license plate. Defendant suspected that the vehicle belonged to Parker because he had seen the vehicle at Evelyn's house on a prior occasion. Defendant entered the vehicle to search for an item that would identify the owner. Defendant photographed and removed property from the vehicle, including a black bag and health club identification cards. Defendant did not intend to keep the property, but he wanted to use it for identification purposes. Defendant put the property, except the health club cards, in his vehicle. Defendant then approached the house and noticed that a light was on in the

bedroom. Defendant looked in the window and saw his wife having sexual intercourse with Parker. Defendant removed the screen and lifted the window to yell at Evelyn and Parker. Parker left the room, and Evelyn closed the window and yelled to Parker to call the police. Defendant left the scene and drove around for a short time until he returned to the house to await the police.

¶ 12 The trial court found that defendant was not a credible witness and convicted defendant of burglary. It specifically found that defendant's motive was to deprive the owner of the property because he had been to Evelyn's home before and he saw Parker through the window on that night. Therefore, he did not need the items to identify the owner of the vehicle. The court found defendant not guilty of criminal trespass to property and domestic battery. Defendant filed a motion for a new trial. The court denied the motion and entered an agreed sentence of 30 months' probation. Defendant appeals.

¶ 13 ANALYSIS

¶ 14 On appeal, defendant argues that the State failed to prove beyond a reasonable doubt that he entered Parker's vehicle with the intent to commit a theft where the evidence showed that defendant only entered the vehicle to confirm the identity of its owner and to prove that his wife was seeing another man.

¶ 15 When reviewing the sufficiency of the evidence, the relevant question 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.' " (Emphasis omitted.) *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). Reversal is warranted only if the evidence is so palpably contrary to the weight

of the evidence or so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of defendant's guilt. *People v. Leach*, 398 Ill. 515 (1948).

¶ 16 To convict a defendant of burglary, the State must prove beyond a reasonable doubt that he, without authority, knowingly entered a motor vehicle with the intent to commit a theft. 720 ILCS 5/19-1(a) (West 2008). A person's intent may be proved circumstantially by inferences reasonably drawn from the circumstances of his conduct. *People v. Johnson*, 28 Ill. 2d 441 (1963). "[I]n the absence of contradictory evidence, an unlawful entry into a building which contains personal property which could be the subject of theft gives rise to an inference that entry was made for that purpose." *People v. Snow*, 124 Ill. App. 3d 955, 961 (1984). A person commits theft when he knowingly obtains control over property of the owner and intends to deprive the owner permanently of the use or benefit of the property. 720 ILCS 5/16-1 (West 2008).

¶ 17 Here, defendant admitted that he entered Parker's vehicle. He was found with health club cards, a bank slip, and a laptop taken from the vehicle. Although he testified that he removed the property to identify the vehicle's owner, he also stated that he recognized the vehicle from a prior visit and he saw Parker in Evelyn's bedroom. As the trial court noted, these observations, and the other evidence gathered by defendant, resolved his identification questions. In any case, the statute does not provide an exception for gathering evidence of infidelity, and defendant's possession of the items, viewed under the *Collins* standard, was more than sufficient to prove an intent to steal. *Snow*, 124 Ill. App. 3d 955 (property taken after entry is evidence of the required intent at time of entry). Consequently, we hold that the offense was proven beyond a reasonable doubt.

¶ 18

CONCLUSION

¶ 19 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 20 Affirmed.