

2013 IL App (1st) 113672-U

FOURTH DIVISION
March 14, 2013

No. 1-11-3672

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. 10 CR 11922
)	
RICHARD ALLEN,)	Honorable
)	Thomas V. Gainer, Jr.,
Defendant-Appellant.)	Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Lavin and Justice Epstein concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant was proved guilty of burglary and possession of burglary tools beyond a reasonable doubt.

¶ 2 In a bench trial, defendant Richard Allen was convicted of burglary and possession of burglary tools and sentenced to concurrent prison terms of six years and two years for those respective offenses. On appeal, defendant contends that the State failed to prove his guilt of both offenses beyond a reasonable doubt.

¶ 3 The State's evidence established the following. Chicago police officer Daniel Cravens testified that between 1 a.m. and 1:20 a.m. on the night of June 18, 2010, he and his partner responded to a call about a theft in progress at 104th and Michigan Avenue. There was a car lot at that location, which was enclosed by a fence. Officer Cravens saw that two men were next to a Buick in the lot, reaching into it. Defendant was on his knees on the passenger side, leaning into the car. A second man was on the driver's side, also kneeling and reaching into the car. When the men saw him, they fled. Defendant climbed over the fence, dropping a black bag as he did so. Officer Cravens chased defendant on foot and apprehended him where he was hiding in an abandoned building. Officer Cravens recovered the black bag in the car lot, and found that it contained "multiple" tools, including pliers and screwdrivers. He testified without objection that in his experience, such tools were used to punch out locks in burglaries. Defendant was arrested and taken to the police station, where he told Officer Cravens that he was in the lot helping a friend named Bert fix a car. Defendant's wife also came to the police station and told Officer Cravens that defendant had left their home to take some locksmith tools to a friend.

¶ 4 Sheldon Stoakley testified that he owned the business at the car lot where defendant was seen that night. He sold cars for himself and for other people. The day before this incident, Stoakley was at the lot and saw that two tires were missing from a Buick which he owned. The evidence established that this was the same Buick which defendant was next to when the police saw him on the night in question. Stoakley testified that he did not know defendant and that he had not hired anyone to work on his cars on the day of the incident. On the night of the incident, Stoakley was called to the lot by the police. He saw defendant sitting in the back of a police car. Stoakley also saw his Buick, which now had the other two tires missing as well as the radio. The hood of the car was wide open and the door lock on the driver's door had been "messed with."

¶ 5 Testifying on his own behalf, defendant stated that on the night in question he was remodeling a bathroom for Zena Mae Harmon. When he found that he needed more tools, he went to his home a few blocks away. He retrieved some tools, placing them in a black bag, and began walking to Harmon's home. On the way he encountered an acquaintance named Ben, who asked to borrow his tools to work on a car which was in the car lot. Defendant gave Ben the bag of tools, but told him that he would need them back in an hour because he was trying to finish the job at Harmon's home. When Ben did not return the tools in an hour, defendant left Harmon's home and went to the car lot to retrieve his tools. The lot was fenced in and the gate was locked, so defendant climbed over the fence. Ben was working on a car there. As Ben gave the tools back to defendant, a police car pulled up. When Ben ran, defendant knew Ben was "up to something shady," so he also ran. Defendant testified that he also ran away because he had a "history" and did not want to get into more trouble. As he fled, defendant dropped his bag of tools. He admitted that he had trespassed on the car lot, but denied that his intent was to break into cars on the lot. Defendant was impeached with prior convictions for attempted burglary, theft, and possession of a controlled substance.

¶ 6 Zena Mae Harmon testified that on the evening in question, defendant was at her home, remodeling a bathroom. Around 9:30 or 10 p.m. he told her he was going back to his house to pick up some additional tools that he needed. He did not return, and Harmon did not see him again until trial.

¶ 7 Defendant's wife, Evelyn Allen, testified that on the night in question defendant came to their house, telling her that he needed to get some tools for the job he was doing at Harmon's home. Evelyn denied telling the police that defendant had told her that a friend had called to request some locksmith tools. At the close of all the evidence the court found defendant guilty of

burglary and possession of burglary tools. Defendant was sentenced to concurrent sentences of six years and two years for those respective offenses. He now appeals.

¶ 8 Defendant's sole contention on appeal is that he was not proved guilty beyond a reasonable doubt. Our standard of review for such a claim is whether, viewing the evidence in the light most favorable to the State, any rational trier of fact could find the essential elements of the crime beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). It is the function of the trier of fact to weigh the evidence, determine witness credibility, resolve conflicts in the evidence, and draw reasonable inferences from these factors. *People v. Williams*, 193 Ill. 2d 306, 338 (2000). The trier of fact is not required to disregard inferences that flow normally from the evidence, nor to seek out all possible explanations consistent with innocence and elevate them to reasonable doubt. *People v. Jackson*, 232 Ill. 2d 246, 281 (2009).

¶ 9 To prove burglary of an automobile, the State must prove that the defendant, without authority, knowingly entered an automobile with the intent to commit a felony or a theft. 720 ILCS 5/19-1(a) (West 2010). The crime is complete upon entry with intent to steal (*Beauchamp*, 241 Ill. 2d at 8) and intent may be proved by circumstantial evidence (*People v. Ybarra*, 272 Ill. App. 3d 1008, 1010-11 (1995)). Here, defendant gained entry to a locked and fenced-in car lot by climbing over the fence. The police saw defendant leaning into the interior of a car which he did not own and which the owner testified had been intact the day before except for two missing tires. Defendant fled from the police and was found hiding in an abandoned building. This flight and attempt to hide were evidence of his consciousness of guilt. *People v. Hart*, 214 Ill. 2d 490, 519 (2005). When he fled, defendant dropped a bag which the police found to contain numerous tools, including pliers and screwdrivers. The owner of the car was called to the lot, where he found that the remaining two tires and the car radio were missing, the lock to the driver's door had been tampered with, and the hood was wide open. This evidence proved beyond a

reasonable doubt that defendant was guilty of burglary of the car. The trial court was not required to believe defendant's claim that he had loaned his tools to an acquaintance on the street and had entered the locked car lot to retrieve his tools. Indeed, Officer Cravens testified that defendant's wife told him that defendant told her he was taking locksmith tools to a friend, which contradicted defendant's account. Defendant also contradicted his trial account when he told Officer Cravens that he was at the car lot to help a friend fix a car.

¶ 10 Defendant also challenges the sufficiency of the evidence that he possessed burglary tools. A person commits the offense of possession of burglary tools when he possesses any tool which is suitable for breaking into a motor vehicle with intent to enter into that vehicle and with intent to commit a felony or theft therein. 720 ILCS 5/19-2(a) (West 2010). The requisite intent may be inferred from the surrounding circumstances. *People v. Esposito*, 18 Ill. 2d 104, 106-108 (1960) (burglary tools and weapons were found in defendant's car, he gave contradictory statements about the tools, and his companion fled from the police); *People v. Whitfield*, 214 Ill. App. 3d 446, 456 (1991) (defendant fled with a bag of tools and the vehicle from which he fled had a hole in its steering column). In this case, defendant illegally entered the car lot, he fled the scene with a bag containing tools suitable for a burglary, he gave contradictory statements about why he was in the car lot, and the car from which he fled had damage to the driver's door and was missing its radio. This circumstantial evidence established defendant's intent to burglarize the car. When viewed in the light most favorable to the State, the evidence proved defendant guilty of possession of burglary tools.

¶ 11 For the reasons set out in this order, we affirm defendant's convictions and sentences.

¶ 12 Affirmed.