

No. 1-12-3564

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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 15307
)	
RICKIE CAMPBELL,)	Honorable
)	Kevin M. Sheehan,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE SIMON delivered the judgment of the court.
Justices Neville and Pierce concurred in the judgment.

O R D E R

- ¶ 1 **Held:** Judgment entered on burglary conviction affirmed over defendant's challenge to the sufficiency of the evidence.
- ¶ 2 Following a bench trial, defendant Rickie Campbell was convicted of burglary and sentenced to seven years' imprisonment. On appeal, he contests the sufficiency of the evidence to prove him guilty beyond a reasonable doubt.
- ¶ 3 At trial, Johnny Gage testified that he owns property in the area of Mason and Wabansia Avenues in Chicago. He also testified that there is a vacant property on the corner at 1700 North

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Mason Avenue, that he was inside that property around July 28, 2010, and made an unsuccessful bid for it at auction.

¶ 4 Gage further testified that at 10 a.m. on August 12, 2010, he was in the area of 1700 North Mason Avenue in Chicago, when he observed a white pickup truck parked with its tail end "all the way up to the door of the property" at 1700 North Mason Avenue. The truck was in "bad shape" with a missing headlight, rust and additional damage. He also observed three black males, later identified as defendant, Ted Harrison and Terrence Eisen, moving "very rapidly" in and out of the apartment building through the front door, which did not appear damaged and was in the same condition he had seen it in two weeks before. Gage testified that the men were bringing out radiators, which he had seen inside the apartments of the building, and called police twice. While he was waiting for them to arrive, he saw a vehicle that looked like an unmarked squad car. He went up to the car, and met Officer Davis, and told him what he had just observed. He then pointed out the three men, who were still loading radiators onto the back of the pickup truck. Gage called the police again and four squad cars arrived. Gage stated that defendant did not flee, and that he saw him talking to the police.

¶ 5 Chicago police officer Eric Davis testified that just before 10 a.m. on August 12, 2010, he was driving in an unmarked car in plain clothes with his badge displayed when he was flagged down by Gage who told him that he saw "suspicious characters" going into the building at 1700 North Mason Avenue. Officer Davis saw three men, one of whom was defendant, carrying out radiators from that building and placing them in a white pickup truck which was backed up to the front door of the building. Officer Davis blocked the truck with his car and got out. As he waited for backup to arrive, he approached the men and talked to them about parking on the driveway.

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When more officers arrived on the scene, defendant was arrested.

¶ 6 Patrick Hurley testified that he is senior vice president of Forsythe Realty Partners (Forsythe), and is responsible for all of the properties that "come under [Forsythe's] control." The owner of the property in question is HSBC National Association Bank, which hired the loan servicing company, Acquan Loan Servicing (Acquan), to oversee this particular asset, and Acquan then hired Forsythe to manage and sell the property. Forsythe's responsibility was to secure the property which was empty, make sure it was winterized if it was still owned by the bank, cut the grass, and correct any known code violations. Forsythe hired contractors to perform this work.

¶ 7 Hurley testified that defendant, Harrison and Eisen did not work for Forsythe, and did not have permission to enter and remove any items from the property at 1700 North Mason Avenue. Hurley stated that he hired Jeremy Bienstra to manage the property on a day-to-day basis, and knew who Bienstra assigned to work at the building. Depending on the work needed, one of three plumbing or electrical contractors would be called. Hurley testified that Amalgamated was one of those contractors, but he did not know all of the people who worked for the contractors.

¶ 8 Defendant testified that Eisen and Harrison, who he "really don't" know, call him sometimes if they have scrap metal to take to the junk yards because he has a pickup truck. They called him on August 12, 2010, and he went to 1700 North Mason Avenue. Eisen opened the front door with a key, and told him that they were moving radiators to sell on Grand Avenue. Defendant asked him if he had permission to do so, and Eisen told him that the owner gave him permission to remove the radiators. Defendant explained that Eisen worked for AD and Construction, and he often asked Eisen if he had permission when he asked him to bring things

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to the junk yard because many people steal things in this neighborhood. Defendant acknowledged that boarded up properties are targets, and that this property was boarded up.

¶ 9 Defendant further testified that Eisen was going to pay him for his services, and that he never talked to Hurley, Bienstra or anyone from Forsythe. He only talked to Eisen and Harris about the property, and when Eisen opened the door, defendant saw the radiators at the front of the building.

¶ 10 In rebuttal, the State presented a certified copy of defendant's conviction for felony theft in 2002. The court allowed it admitted for credibility purposes.

¶ 11 At the close of evidence, the court found defendant guilty of burglary. The court noted that it considered the credibility of the witnesses and the weight to be given to their testimony, and the reasonableness of the testimony of each witness in light of all of the evidence. The court noted that Gage saw three men "rapidly" moving radiators out of the building and placing them in a beat up truck that had no business logo. The court stated that it did not believe defendant, and that his testimony that he received a call from men he did not know to pick up radiators did not make sense. Defendant's testimony was "hear no evil, see no evil, speak no evil. It's everybody else," and he just brought his truck to carry out the radiators. The court found defendant's testimony "inherently unbelievable," especially where he had a prior conviction for a crime of dishonesty, and that his testimony was "incredible from a logical standpoint."

¶ 12 Defendant filed a motion for a new trial, which was denied. The court noted that it made credibility findings which it still finds sound, and that the elements of burglary were met beyond a reasonable doubt.

¶ 13 On appeal, defendant challenges the sufficiency of the evidence to sustain his conviction

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for burglary. He maintains that the evidence presented was insufficient to establish that he did not have authority to enter the vacant building and that he intended to commit a theft therein.

¶ 14 When defendant challenges the sufficiency of the evidence to sustain his conviction, our duty is to determine whether all of the evidence, direct and circumstantial, when viewed in the light most favorable to the prosecution, would cause a rational trier of fact to conclude that the essential elements of the offense have been proved beyond a reasonable doubt. *People v. Wiley*, 165 Ill. 2d 259, 297 (1995). A criminal conviction will be reversed only if the evidence is so unsatisfactory or improbable that it leaves a reasonable doubt of defendant's guilt. *Wiley*, 165 Ill. 2d at 297. For the reasons that follow, we do not find this to be such a case.

¶ 15 To sustain defendant's burglary conviction, the State was required to prove beyond a reasonable doubt that he unlawfully entered the building with the intent to commit a theft therein. 720 ILCS 5/19-1(a) (West 2012). Intent may be inferred from the surrounding circumstances and proved by circumstantial evidence. *People v. Moreira*, 378 Ill. App. 3d 120, 129 (2007). Unlawful entry may also be proved by circumstantial evidence. *People v. Baker*, 59 Ill. App. 3d 100, 102 (1978).

¶ 16 In the absence of inconsistent circumstances, proof of unlawful entry into a building containing personal property that could be the subject of larceny gives rise to an inference that will sustain a conviction for burglary. *People v. McKinney*, 260 Ill. App. 3d 539, 544 (1994). This inference is grounded in human experience which justifies the assumption that the unlawful entry was not without purpose, and in the absence of other proof, indicates theft as the most likely purpose. *People v. Johnson*, 28 Ill. 2d 441, 443 (1963). Other relevant factors include the

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time, place and manner of entry, defendant's activities inside the premises, and his alternative explanations for being there. *People v. Richardson*, 104 Ill. 2d 8, 13 (1984).

¶ 17 Defendant maintains that he had authority to enter the building and did not intend to steal the radiators because he was hired to perform maintenance work on the building to prepare it for sale, which, he claims, was supported by the fact that the radiators were lined up in the hallway by the front door, and there was no evidence of forced entry. He further maintains that he did not show any consciousness of guilt in that he did not flee from police, or try to conceal his presence at the property.

¶ 18 The evidence in this case, when viewed in the light most favorable to the prosecution (*People v. Pintos*, 133 Ill. 2d 286, 292 (1989)), shows that defendant was seen "rapidly" removing radiators from a boarded-up, vacant building and loading them on a pickup truck backed up to the front door, activity which Gage found suspicious in light of his recent acquaintance with the building. There was also no business logo on defendant's vehicle, and Hurley testified that defendant, Eisen and Harrison did not have permission to enter and remove the radiators from the building. Although Hurley did not know every individual who worked for the contracting companies he hired, he did know that the contractors hired by Forsythe to perform work on the building were either electricians or plumbers whose purpose was to ensure that the building was up to code. Defendant was performing no such activities in the building, but, rather, was removing radiators and placing them in his pickup truck for the sole purpose of selling them.

¶ 19 Defendant also never met Bienstra who handled the day-to-day operations of the building, and further doubted Eisen's authority where he asked Eisen if he had permission to

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remove the radiators and sell them. When defendant chooses to give an explanation for his conduct, he should provide a reasonable story or be judged by its improbabilities. *People v. Hart*, 214 Ill. 2d 490, 520 (2005). Examining the plausibility of defendant's explanation of events against the theory urged by the State, in light of the totality of the evidence, we find it reasonable for the trial court to have concluded that defendant entered the premises without authority and with the intent to commit a theft therein when he removed valuable property from the vacant, boarded up building. *People v. Caban*, 251 Ill. App. 3d 1030, 1034 (1993).

¶ 20 The court was not required to believe defendant's self-serving testimony that he believed he was hired to perform maintenance work on the building (*Moreira*, 378 Ill. App. 3d at 130), and the court, in fact, specifically rejected defendant's explanation. We find no reason to disturb the credibility determination made by the trial court (*People v. Hernandez*, 278 Ill. App. 3d 545, 552-53 (1996)), and conclude that the evidence was sufficient to allow the trial court to find that defendant was proved guilty of burglary beyond a reasonable doubt.

¶ 21 In reaching this conclusion, we find defendant's reliance on *People v. Meeker*, 86 Ill. App. 3d 162 (1980), misplaced. In *Meeker*, 86 Ill. App. 3d at 171, defendant was convicted of burglary of the Hidalgo Independent Christian Church, and on appeal, contested the element that he lacked authority to enter the church. The reviewing court noted that the treasurer of the church testified that defendant was an "inactive member" and that members can enter the church at any time, and that the church has an open-door policy for them. *Meeker*, 86 Ill. App. 3d at 171-72. The reviewing court thus concluded that defendant had authority to enter the church. *Meeker*, 86 Ill. App. 3d at 172. Here, unlike *Meeker*, there was no open-door policy for defendant, nor was there evidence to show that he was hired by a contractor to perform electrical or plumbing work

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on the building to ensure there were no code violations, or to cut the grass or winterize the building, the only activities that Forsythe had contracted others to perform. To the contrary, the evidence showed that defendant entered the premises without authority and with the intent to commit a theft therein (*Caban*, 251 Ill. App. 3d at 1034), and was thus found guilty of burglary.

¶ 22 In light of the foregoing, we affirm the judgment of the circuit court of Cook County.

¶ 23 Affirmed.