

No. 1-14-1852

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IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF JACQUES S., a minor,)
(PEOPLE OF THE STATE OF ILLINOIS,)
Petitioner-Appellee,)
v.)
JACQUE S., a minor,)
Respondent-Appellant).)

) Appeal from the
) Circuit Court of
) Cook County
)
) No. 14 JD 1032
)
) Honorable
) Lori Wolfson,
) Judge Presiding.

JUSTICE REYES delivered the judgment of the court.
Justices McBride and Gordon concurred in the judgment.

ORDER

¶ 1 *Held:* Respondent's adjudication of delinquency is affirmed over his contentions that the evidence was insufficient to find him guilty beyond a reasonable doubt of residential burglary.

¶ 2 Respondent, 17-year-old Jacque, was charged by petition for adjudication of wardship with residential burglary (720 ILCS 5/19-3 (West 2014)) along with three other related counts.

Following a bench trial, the circuit court of Cook County adjudicated respondent delinquent

upon a finding that respondent was guilty of residential burglary and committed him to the Department of Juvenile Justice. On appeal, Jacque argues the State failed to prove him guilty of residential burglary beyond a reasonable doubt. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 The petition for adjudication of wardship alleged that Jacque committed one count of residential burglary (720 ILCS 5/19-3 (West 2014)), burglary (720 ICLS 5/19-1(a) (West 2014)), theft (720 ILCS 5/16-1(a)(1) (West 2014)), and criminal trespass to real property (720 ILCS 5/21-3(a)(1) (West 2014)). All of the charges arose from a March 20, 2014, incident in which Jacque allegedly entered the dwelling of Lashawn Lancaster with the intent to permanently deprive her of computers, clothing, and shoes, having a total value not exceeding \$500.

¶ 5 At trial, Lashawn Lancaster testified that on March 20, 2014, she and her fiancé Saul Omar Funes resided in an apartment located at 6033 North Mozart Street in Chicago with her son. On the day in question, while her son was at school, she was at home on the computer with a clear view of the front and back doors when she heard a "boom sound" in her son's bedroom. Lancaster testified she believed her son had entered his bedroom through the window. Lancaster went to the bedroom, but was unable to open the door. She called out her son's name, but there was no response. She then called out for her fiancé, who was asleep in the other room, to assist her in opening the bedroom door.

¶ 6 Together, Lancaster and Funes successfully opened the bedroom door and discovered Jacque inside. Lancaster knew Jacque because she was friends with Jacque's mother "[f]or a couple of years." When confronted by Lancaster and Funes, Jacque said nothing, he "just rushed out of the room and started going back and forth through [the] house grabbing stuff, looking for stuff." In rushing out of the bedroom, Jacque pushed Lancaster and Funes, causing Funes to fall

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onto the floor. Jacque then proceeded to "walk[] through [the] house like it was his" picking up her son's belongings. Jacque also removed his own shoes and put on her son's shoes. While Jacque was in the apartment, Lancaster testified she was "[s]creaming at the top of [her] lungs saying 'Get out. Get out. Get out.'" Jacque, however, did not leave and told Lancaster to "shut the f*** up."

¶ 7 Lancaster then called 911. Despite knowing that the police were on their way, Jacque still would not leave Lancaster's residence. Instead, he continued walking back and forth throughout the apartment for "at least 15 minutes." Jacque eventually left the premises approximately four minutes prior to the arrival of the police. Lancaster testified she did not give Jacque permission to be in her apartment, nor did she give him permission to take her son's clothing, shoes, or laptop computer.

¶ 8 On cross-examination Lancaster testified that her son was an "associate" of Jacque's and that Jacque, on occasion, would spend the night at her home. Jacque also "had some things" at her house. Lancaster was not aware whether Jacque spent the evening of March 19, 2014, at her home. She testified it was possible that her son invited Jacque into the apartment while she was asleep. Lancaster, however, clarified that her son did not allow Jacque in the house, and that it was her son who "wants [her] to prosecute [Jacque] for taking [her son's] things."

¶ 9 The testimony provided by Funes was substantially similar to that of Lancaster. On March 20, 2014, at 2 p.m. he was asleep in his bedroom when he was awoken by Lancaster calling his name. Funes was not exactly sure what items Jacque was carrying when he exited their residence because he was "a little bit panic[ked] at the time," but "[Jacque] was carrying some kind of clothing in his hands, and maybe the computer." Funes further testified he did not give Jacque permission to enter his residence nor did he give Jacque permission to take any items

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from the apartment.

¶ 10 On cross-examination, Funes testified Lancaster's son and Jacque were friends and that "sometimes kids—they do something wrong. They sneak their friends in the house, and I don't know what's going on."

¶ 11 The State then rested. Jacque moved for a directed finding, which the trial court denied. The defense then rested. After hearing closing arguments, the trial court found Jacque guilty of residential burglary with the other counts merging for sentencing purposes, specifically finding Jacque did not have permission to be in the apartment at that time and that he removed items which did not belong to him. The trial court then committed Jacque to the Department of Juvenile Justice. This appeal timely followed.

¶ 12 ANALYSIS

¶ 13 On appeal, Jacque contests the sufficiency of the evidence, contending that the State failed to prove: (1) he was in Lancaster's apartment without authority; and (2) he had the intent to commit a felony or theft therein. Jacque specifically maintains he had the authority to be in the apartment and that there was no evidence presented at trial that he intended to take anything from the apartment that did not belong to him.

¶ 14 "In delinquency proceedings, as in criminal cases, when evaluating a challenge to 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." (Internal quotation marks omitted.) *People v. Austin M.*, 2012 IL 111194, ¶ 107. "[I]n a bench trial, it is for the trial judge, sitting as the trier of fact, to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence." *People v. Siguenza-Brito*,

235 Ill. 2d 213, 228 (2009); *Austin M.*, 2012 IL 111194, ¶ 107. The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances; instead, it is sufficient if all the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the respondent's guilt. *In re Jonathon C.B.*, 2011 IL 107750, ¶ 60. Similarly, the trier of fact is not required to disregard inferences that flow normally from the evidence nor to seek all possible explanations consistent with innocence and elevate them to reasonable doubt. *Id.* In our review, we make all reasonable inferences from the evidence in favor of the State, and we do not reverse unless the evidence is so unreasonable, improbable, or unsatisfactory that a reasonable doubt of the respondent's guilt remains. *Austin M.*, 2012 IL 111194, ¶ 107.

¶ 15 The elements of residential burglary are set forth in section 19-3(a) of the Criminal Code of 2012 (720 ILCS 5/19-3(a) (West 2014)). That section provides:

"A person commits residential burglary when he or she knowingly and without authority enters or knowingly and without authority remains within the dwelling place of another, or any part thereof, with the intent to commit therein a felony or theft." 720 ILCS 5/19-3(a) (West 2014).

¶ 16 Intent may be established through circumstantial evidence. *People v. Obrochta*, 149 Ill. App. 3d 944, 949 (1986). Further, the State may prove intent by inferences drawn from the respondent's conduct and from surrounding circumstances. *People v. McKinney*, 260 Ill. App. 3d 539, 544 (1994). Relevant considerations include the time, place, and manner of entry, the respondent's activity within the premises, and any alternative explanations offered for his or her presence. *People v. Richardson*, 104 Ill. 2d 8, 13 (1984). In the absence of inconsistent circumstances, proof of unlawful entry into a building which contains personal property that could be the subject of larceny gives rise to an inference that will sustain a conviction for

burglary. *McKinney*, 260 Ill. App. 3d at 544. Whether the requisite intent existed is a question for the trier of fact, and its decision will not be overturned on appeal unless the evidence is contrary to the verdict or so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of guilt. *People v. Boone*, 217 Ill. App. 3d 532, 533 (1991).

¶ 17 Jacque first argues that he did not enter the apartment without authority. Jacque asserts that the evidence at trial demonstrated that prior to the incident he had been an invited overnight guest in the home and kept some items of clothing there. In addition, Jacque points to Lancaster and Funes's testimony wherein both witnesses acknowledged they did not know whether or not he had spent the night in their home the evening prior to March 20, 2014. The evidence at trial, however, conflicts with Jacque's contention. Lancaster and Funes's testimony expressly indicated that Jacque was not given permission to be in the apartment at 2 p.m. on March 20, 2014. Additionally, Lancaster testified that upon discovering Jacque in her home, she repeatedly told him to "get out" and Jacque failed to comply. Viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found beyond a reasonable doubt that Jacque did not have the authority to enter the apartment, nor did he have express or implied permission to remain in the premises. See *People v. Yager*, 128 Ill. App. 3d 702, 705 (1984).

¶ 18 Jacque next argues that he did not enter the apartment with the intent to commit a felony or theft. Here, after viewing the evidence in the light most favorable to the State, we see no reason to depart from the trial court's determination that Jacque had the requisite intent to commit the offense of residential burglary. The testimony at trial established Jacque entered the apartment through a window and was discovered by Lancaster and Funes barricaded in her son's bedroom at 2 p.m. while her son was not home. Once the two adults gained entry into the bedroom, Jacque was observed searching the bedroom and gathering items that did not belong to

him. He then "rushed" out of the bedroom, pushing Funes to the ground. Jacque continued to search the main living areas of the apartment, gathering items and putting on her son's shoes, while Lancaster screamed at him to leave. Despite knowing the police had been called, Jacque was in the apartment for a total of 15 minutes before leaving. The reasonable inferences from Lancaster and Funes's credible and unimpeached testimony regarding Jacque's conduct and the surrounding circumstances established that Jacque intended to commit a theft inside the apartment. See *McKinney*, 206 Ill. App. 3d at 544 (burglary conviction affirmed where circumstantial evidence established that the defendant had the requisite intent). Whether the requisite intent existed is a question for the trier of fact. *Maggette*, 195 Ill. 2d at 354. As the trial court had the opportunity to determine the credibility of the witnesses, we will not substitute our judgment for that of the trier of fact. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006).

¶ 19 Jacque further contends no evidence was presented a trial demonstrating he took anything that did not belong to him from the apartment. Specifically, Jacque asserts Lancaster offered no testimony that she observed him take anything from the home. Whether Jacque actually removed any items from the apartment, however, is irrelevant in finding an individual guilty of residential burglary. *Richardson*, 118 Ill. App. 3d at 177. The State need only prove Jacque had the requisite intent to commit a theft. *Id.*

¶ 20 In addition, we find defendant's reliance on *People v. Perry*, 133 Ill. App. 2d 230 (1971), to be misplaced. In that case, the reviewing court found that the fact the defendant was discovered "at the door of complainant's bedroom (rather than in the living or dining room where objects of theft would more likely be found), when coupled with the fact that defendant knew complainant and had previously been invited to visit her late at night" reasonably created an inference of "some other inconsistent motive for his presence." *Id.* at 233. Accordingly, the

reviewing court concluded the State did not prove beyond a reasonable doubt that the defendant committed burglary. *Id.* Here, however, Jacque has not provided "some other inconsistent motive for his presence" in Lancaster's apartment, particularly in light of the testimony of Lancaster and Funes that Jacque did not have the authority to be present in the apartment at 2 p.m. on March 20, 2014, and that he took items from the apartment that did not belong to him. Taking the evidence in the light most favorable to the State, for the reasons previously stated, we find no reason to question the trial court's judgment in the instant case.

¶ 21

CONCLUSION

¶ 22 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 23 Affirmed.