

No. 1-14-2567

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 19672
	)	
JULIUS SANGSTER,	)	Honorable
	)	Paula M. Daleo,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court.  
Justices Pucinski and Cobbs concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Where the evidence did not establish that the vehicle defendant possessed was the same vehicle stolen from, and owned by, Tondra Miles, the evidence was insufficient to prove defendant guilty of possession of a stolen motor vehicle beyond a reasonable doubt.

¶ 2 Defendant, Julius Sangster, and codefendant, James Robinson, were charged with one count of possession of a stolen motor vehicle and one count of burglary. Robinson pled guilty and was sentenced to six years in prison for possession of a stolen motor vehicle. Following a bench trial, defendant was found guilty of possession of a stolen motor vehicle and, based on his

criminal history, was sentenced as a Class X offender to 14 years in prison. On appeal, defendant argues that the State did not prove him guilty of possession of a stolen motor vehicle because it did not prove beyond a reasonable doubt that the 2008 Pontiac G6 recovered from Robinson's backyard was the same 2008 Pontiac G6 that was stolen from Tondra Miles, or that defendant knew that the vehicle recovered was stolen. Defendant further argues that the mittimus should be corrected because it shows that he was convicted of possession of a stolen motor vehicle and burglary even though he was only found guilty of the offense of possession of a stolen motor vehicle.

¶ 3 For the reasons below, we reverse defendant's conviction.

¶ 4 Defendant's conviction arose from events that took place between October 9, 2012, and October 11, 2012. At trial, Tondra Miles testified that she used to own a 2008 Pontiac G6. On October 9, 2012, when she went to bed, her car was locked and parked in the back of her house, located at 4439 West Washington, in Chicago. When she woke up on October 10, 2012, her car was not there. Miles did not give anyone permission to take her car, did not know defendant or Robinson, and did not give them permission to take her car or any items from her car.

¶ 5 Chicago Police Officer Bill Caro testified that on October 11, 2012, at about 4 p.m., he received a radio assignment that a stolen vehicle was in the area of 1311 South Tripp Avenue, which was a single family residence with a backyard. When he arrived at that location, he saw that a vehicle was being "chopped up" and that the hood, tires, rims, and struts were removed from the vehicle. No one was near the vehicle, so he set up surveillance. Thereafter, he saw defendant and Robinson come to the rear yard. He was about 50 feet away and saw them in the process of removing an engine from a black 2008 Pontiac G6. An engine lift was in front of the

vehicle, and defendant and Robinson were bent over by the engine compartment. Officer Caro called for assistance, broke surveillance, and went to the front of the residence. Defendant left the backyard and walked down the side of building to the front. Officer Caro apprehended defendant in the front of the house and arrested him on the front porch. Defendant's hands were "full of grease."

¶ 6 Officer Caro inspected the vehicle in the backyard. The left rear quarter panel glass was broken and covered by duct tape, the steering column and ignition were "popped," and the doors were missing. Parts from the front of the engine were by the side of the hood with the tires, rims, and some other parts that belonged to another vehicle. Later that evening, Officer Caro spoke with defendant at the police station. Defendant told Officer Caro that he owned the engine lift that was removing the engine from the vehicle and that he brought it there to help his friend, Robinson, remove the engine.

¶ 7 The State introduced and admitted into evidence a series of photographs, People's Exhibits No. 1 through No. 5. The State showed Miles People's Exhibit No. 1. Miles testified that the photograph was of the back of her car and that she knew that it was the back of her car because she knew "the current motor sticker that was on the - - ." While the transcript indicates that Miles testified that it was a "current motor sticker" on the back of the car, both parties on appeal refer to the sticker as a "Currie Motor" sticker, and our review of Exhibit No. 1 reveals a "Currie Motor" sticker. Miles testified that the car in the photograph did not have license plates and that her car did have license plates. Miles also testified that the photograph truly and accurately reflected how her car appeared in October of 2012.

¶ 8 The State showed Miles and Officer Caro People's Exhibit No. 2. Miles testified that the photograph was "a hub cap," that the hub caps in the photograph were not on her car, and that her car did not have hub caps. Officer Caro testified that People's Exhibit No. 2 showed four hubs caps on the side of a fence in Robinson's backyard and that the hub caps did not belong to the vehicle. Officer Caro also testified that there were no other vehicles in the backyard and that there were some other parts in that yard that did not belong to the vehicle that was being chopped up.

¶ 9 The State showed Miles and Officer Caro People's Exhibit No. 3. Miles testified about Exhibit No. 3 as follows:

"Q. [ASSISTANT STATE'S ATTORNEY] Showing you what's been marked as People's Exhibit No. 3 for identification purposes, do you recognize this?

A. No.

Q. Can you say what it is?

A. Not really.

Q. Is it a photo of a vehicle?

A. Yeah.

Q. And does this photo represent how your vehicle appeared the last time you saw it?

A. No."

Miles was not shown People's Exhibits No. 4 or No. 5.

¶ 10 Officer Caro testified about People's Exhibits No. 3, No. 4, and No. 5. He testified that the photographs showed how "the 2008 Pontiac G6" looked on the subject day. With respect to

People's Exhibit No. 3, Officer Caro testified that it "depicts the front of the vehicle, mostly the body parts removed, with the hoist, and the engine being half way removed from the vehicle." He testified that People's Exhibit No. 4 showed the right front door and hood, which had been removed from the same vehicle, and that People's Exhibit No. 5 showed the "side view of the left side, left rear with the quarter glass had been broken and taped up."

¶ 11 Defendant called Robinson as a witness. Robinson testified that he was currently serving a six-year sentence for possession of a stolen vehicle. On October 11, 2012, he was in his backyard with his girlfriend, who was helping him take an engine out of a stolen vehicle. He also took two doors, the hood, and the bumper off that vehicle. Robinson had the vehicle for about three days and "got it off of -- on Kilbourn and Washington" by breaking a window and pulling or popping the ignition. Robinson testified that he owned the engine lift that was in the backyard. When Robinson was in the backyard, several police officers approached him and told him get down on the floor. When the police officers appeared, his girlfriend "disappeared." Robinson testified that he did not know defendant and had first met him at the police station on October 11, 2012, the day he was arrested.

¶ 12 Cynita Collins, defendant's girlfriend, testified for defendant. On October 11, 2012, around 2 p.m. or 4 p.m., Collins and defendant were in defendant's car. Defendant's car started smoking and having problems so they stopped at a gas station. Collins told defendant that she knew a mechanic in the area named James Robinson. They could not drive defendant's car, so they walked to Robinson's home, which took about 35 to 40 minutes. Collins testified that she knew Robinson but that defendant did not know him.

¶ 13 When Collins and defendant arrived at Robinson's home, defendant went to knock on Robinson's door to see if he was home. Collins did not go to the door with defendant because she had already told defendant about Robinson. She walked to the corner because she saw two squad cars there and wanted to see what was going on. When she was walking to the corner, she saw two police officers go up to Robinson's porch. Before defendant could knock on Robinson's door, Collins saw the police officers approach defendant, talk with him, and take him to the back. After about five minutes, the police officers brought defendant back to the front and put him in a squad car. Collins did not go up to the police officers to find out what was happening and did not inform them that defendant's car had broken down.

¶ 14 Defendant testified on his own behalf. On October 11, 2012, at about 2 p.m., he was driving in his car with Collins. His car started "messaging up," so they stopped at a gas station. Collins told defendant that Robinson was the best mechanic in the neighborhood, so they walked to Robinson's home. When they first arrived, there were two police squad cars parked on an angle in the front. He went up to the porch and Collins "turned around." When he was in the process of knocking on the front door, the police came in the front yard and grabbed him. They took him around the side to the backyard, where he saw a sergeant, another officer, and Robinson lying down on the ground in handcuffs. The police put handcuffs on defendant, took him to the front, and put him in a squad car. Defendant testified that he had never touched the vehicle that was in the backyard, that he did not own an engine lift, and that he had never owned one. Defendant testified that he did not speak to the police that night and that he met Robinson that night in police lock up and in jail.

¶ 15 In rebuttal, the State offered a stipulation between the parties that Robinson had a prior conviction for possession of a controlled substance from 2007. The State also presented a stipulation that defendant had a conviction in 2008 for possession of a stolen motor vehicle. As a rebuttal witness, the State called Chicago police officer Daniel Lenihan. On October 11, 2012, at 4 p.m., Officer Lenihan went to 1311 South Tripp. When he first saw defendant, defendant was walking from the back and down the gangway to the front of the residence. Officer Lenihan placed defendant into custody by the front porch steps. He never saw defendant on the front porch and never saw him knock on the front door. Officer Lenihan never approached defendant when defendant was on the porch.

¶ 16 Following argument, the trial court found defendant guilty of possession of a stolen motor vehicle. In doing so, the trial court stated as follows:

“The thing about the defendant's case is that I have to consider this case does comes [*sic*] down to believability in every way. I'd have to find it conceivable that at the very moment the police are there effecting an arrest on a very obviously stolen car being worked on in the rear of the address, here comes the defendant and his girlfriend, so a large coincidence.”

Defendant filed a motion for new trial based on ineffective assistance of counsel, which the trial court denied. The trial court sentenced defendant, based on his criminal history, as a Class X offender to 14 years in prison.

¶ 17 Defendant argues on appeal that the State failed to prove beyond a reasonable doubt that he was guilty of possession of a stolen motor vehicle. Specifically, defendant argues that the State failed to prove that the 2008 Pontiac G6 found in Robinson's backyard was the same 2008

Pontiac G6 that was stolen from, and owned by, Tondra Miles, and that the State did not establish a chain of custody to link the 2008 Pontiac G6 recovered from Robinson's backyard to the car named in the charging instrument. Defendant further argues that the State failed to prove that he knew that the 2008 Pontiac G6 found in Robinson's backyard was a stolen vehicle.

¶ 18 In response, the State argues that there was "ample" evidence to show that the vehicle defendant possessed was the same vehicle Miles owned. The State asserts that the year, make, model, and color of the car defendant possessed were the same as the car Miles owned, that the car defendant possessed had a Currie Motors sticker on the back, and that Miles testified that her car had that same sticker. The State contends that even though Officer Caro did not identify People's Exhibit No.1, which Miles identified as her car, he identified People's Exhibits Nos. 2, 3, 4, and 5 as the vehicle that he found defendant "leaning in to" in Robinson's yard. The State contends that People's Exhibits Nos. 1 through 5 were admitted into evidence and that, from these photographs, the trial court could make reasonable inferences that the photographs all showed the same vehicle.

¶ 19 When reviewing the sufficiency of the evidence on appeal, the 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." *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979). "[T]he reviewing court will not substitute its judgment for that of the trier of fact on issues concerning the weight of the evidence or the credibility of the witnesses" (*People v. Robinson*, 2013 IL App (2d) 120087, ¶ 11) and it must allow reasonable inferences from the record in favor of the prosecution (*People v. Saxon*, 374 Ill. App. 3d 409, 416 (2007)). The reviewing court may reverse a conviction if the evidence is so



unsatisfactory as to justify a reasonable doubt of the defendant's guilt or where proof of an element is wholly lacking. *Robinson*, 2013 IL App (2d) 120087, ¶ 11. To sustain a conviction for an offense, all of its elements must have been proven beyond a reasonable doubt. *People v. Rankin*, 2015 IL App (1st) 133409, ¶ 15.

¶ 20 Section 4-103(a)(1) of the Illinois Vehicle Code states as follows:

“(a) Except as provided in subsection (a-1), it is a violation of this Chapter for: (1) A person not entitled to the possession of a vehicle or essential part of a vehicle to receive, possess, conceal, sell, dispose, or transfer it, knowing it to have been stolen or converted; additionally the General Assembly finds that the acquisition and disposition of vehicles and their essential parts are strictly controlled by law and that such acquisitions and dispositions are reflected by documents of title, uniform invoices, rental contracts, leasing agreements and bills of sale. It may be inferred, therefore that a person exercising exclusive unexplained possession over a stolen or converted vehicle or an essential part of a stolen or converted vehicle has knowledge that such vehicle or essential part is stolen or converted, regardless of whether the date on which such vehicle or essential part was stolen is recent or remote[.]” 625 ILCS 5/4-103(a)(1) (West 2012).

To obtain a conviction for the offense of possession of a stolen motor vehicle, the State must prove beyond a reasonable doubt that the defendant possessed the vehicle, that he was not

entitled to possess the vehicle, and that he knew the vehicle was stolen. *People v. Cox*, 195 Ill. 2d 378, 391 (2001).

¶ 21 The State is not required to prove ownership of a stolen vehicle. *People v. Smith*, 226 Ill. App. 3d 433, 438 (1992). “However, there must be proof that someone other than defendant had a superior interest in the car identified in the indictment.” *Id.* This factor may be established by circumstantial evidence and reasonable inferences drawn therefrom. *People v. Fernandez*, 204 Ill. App. 3d 105, 109 (1990). If the State uses evidence of ownership to show a vehicle was stolen, there must be evidence that the defendant possessed the same vehicle that was owned by the complainant. *Smith*, 226 Ill. App. 3d at 438. Evidence that establishes the make and model of a stolen vehicle, without more, is insufficient to prove ownership. *People v. Walker*, 193 Ill. App. 3d 277, 279 (1990). In lieu of proving ownership, the State may present chain of custody evidence, linking the recovered vehicle to the one named in the indictment, as the basis of a proper inference of identification. *Smith*, 226 Ill. App. 3d at 438.

¶ 22 We find that defendant’s conviction must be reversed because the evidence did not establish that the car defendant possessed was the same car named in the charging instrument. Defendant was charged with one count of possession of a stolen motor vehicle in that he possessed an essential part of a vehicle, “the engine of a 2008 Pontiac G6, property of Tondra Miles.” On October 11, 2012, after responding to the report of a stolen motor vehicle, Officer Caro observed defendant and Robinson removing the engine from a 2008 Pontiac G6. Miles testified that she owned a 2008 Pontiac G6, that when she went to bed on October 9, 2012, her car was locked and parked in the back of her home, and that her car was not there when she woke up on October 10, 2012. While the record indicates that the car found in Robinson’s

backyard shared the same make, model, and year as the car stolen from Miles, the evidence failed to establish a sufficient link between the 2008 Pontiac G6 found in Robinson's backyard and the 2008 Pontiac G6 named in the charging instrument.

¶ 23 There was no evidence presented that the car defendant possessed, which Officer Caro observed him removing the engine from in Robinson's backyard, shared any unique characteristics with the car Miles owned, such as vehicle identification numbers (see *Smith*, 226 Ill. App. 3d at 438), similarly damaged areas (see *People v. Balthazar*, 187 Ill. App. 3d 964, 968 (1989)), or similar license plates (see *People v. Tucker*, 186 Ill. App. 3d 683, 694 (1989)). While Miles identified a "Currie Motors" sticker on the back of her car in People's Exhibit No. 1, no evidence was presented to establish that the car defendant possessed also had a "Currie Motors" sticker on the back. Moreover, there was no evidence presented to establish a chain of custody, as there was no evidence that the car defendant possessed was ever returned to Miles. See *Smith*, 226 Ill. App. 3d at 438-39; *Tucker*, 186 Ill. App. 3d at 686, 694.

¶ 24 Furthermore, we do not find that the photographs that the State admitted into evidence are sufficient to establish that the car defendant possessed was the same car listed in the charging instrument. Miles identified People's Exhibit No. 1 as a photograph of the back of her car and testified that she knew it was her car because of the "Currie Motors" sticker on the back. However, Officer Caro did not identify or testify about the car depicted in People's Exhibit No. 1, and there was no evidence presented that the car Officer Caro observed in Robinson's backyard shared any characteristics or features, such as a "Currie Motors" sticker, with the car Miles identified in People's Exhibit No. 1.

¶ 25 While Officer Caro identified People’s Exhibit No. 3 as a photograph of the 2008 Pontiac G6 that he observed in Robinson’s backyard on the subject day, when Miles testified about Exhibit No. 3, she testified that she did not recognize it. She testified that she could “not really” say what it was, that it was a vehicle, and that it did not represent how her vehicle looked in October 2012. Additionally, while Officer Caro identified People’s Exhibits No. 4 and No. 5 as photographs of the 2008 Pontiac G6 that he observed in Robinson’s backyard, Miles did not identify or testify about these exhibits. The photographs depicted in People’s Exhibits No. 3, No. 4, and No. 5 showed, respectively, the front of the car, the hood and right front door, and the left side, but the photograph Miles identified as her car in People’s Exhibit No. 1 showed the rear of a car. In addition, there was no evidence presented that the car, or parts of the car, depicted in People’s Exhibits No. 3, No. 4, and No. 5 had a “Currie Motors” sticker on them, or that the car in these photographs shared any characteristics, other than a similar color, with the car depicted in Exhibit No. 1. Because the testimony about the photographs was insufficient to connect the car depicted in People’s Exhibit No. 1 to the car or car parts depicted in People’s Exhibits No. 3, No. 4, and No. 5, we disagree with the State that the trial court could have made an inference that the photographs depicted in Exhibits Nos. 1 through 5 all depicted the same car.

¶ 26 Accordingly, we conclude that the State failed to prove beyond a reasonable doubt that the car defendant possessed was the same car named in the charging instrument that was stolen from, and owned by, Miles. See *Fernandez*, 204 Ill. App. 3d at 109 (“[T]he identification evidence was too tenuous to support defendant's conviction for possession of a stolen motor vehicle. It appears from the transcript that this link was inadvertently omitted; however, in the absence of sufficient evidence to identify the car in the indictment to the one in the garage, or

some 'chain of custody testimony' from which a proper inference of identification might be drawn [citation], we must conclude that the State failed to meet its burden.”).

¶ 27 Because we find that the State failed to prove that the car defendant possessed was the same car named in the charging instrument that was owned by, and stolen from, Miles, we need not address defendant’s argument that the State failed to prove that he had knowledge that the car was stolen. Given our disposition, defendant’s argument that the mittimus should be corrected to reflect only the offense of possession of a stolen motor vehicle is now moot.

¶ 28 For the reasons explained above, we reverse the judgment of the circuit court.

¶ 29 Reversed.