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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 CR 2090
)	
DAVID READUS,)	Honorable
)	Neil J. Linehan,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE HYMAN delivered the judgment of the court.
Justices Pierce and Mason concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm defendant's conviction for possession of a stolen motor vehicle over his contention that defects in the complaints for preliminary hearing require reversal.

¶ 2 After a bench trial, defendant David Readus was convicted of possession of a stolen motor vehicle and sentenced to 10 years' imprisonment. On appeal, he argues his conviction should be reversed because the purported signatures of the complainant, made on the complaints for preliminary hearing, were not actually made by the complainant. We affirm.

¶ 3 Background

¶ 4 Two complaints for preliminary examination for possession of a stolen motor vehicle (625 ILCS 5/4-103(a) (1) (West 2012)) were filed against Readus on January 12, 2012. One complaint identified the vehicle as a 1995 Buick Century belonging to Adam Ochoa, and the other complaint identified the vehicle by its license plate number. Both complaints contained the purported signature of Ochoa. Following a preliminary hearing on January 18, 2012, the trial court found probable cause to believe that Readus was in possession of a stolen motor vehicle. The next week, Readus was charged by information, sworn by an assistant State's Attorney, with one count of possession of a stolen motor vehicle. The information charged that Readus possessed Ochoa's 1995 Buick Century knowing it to have been stolen.

¶ 5 On May 20, 2013, the circuit court, after admonishing Readus, granted Readus's motion to proceed *pro se*. Readus later filed a document entitled "Notice of Pre-Trial Discovery / Impeachment Material Evidence / Documents / Challenge to Charge Allegations / Sufficiency of the Evidence." Relevant here, the motion stated "Defendant challenges the charge allegations of sufficiency of evidence. I.E. 625 ILCS 5/4-103(a)(1) charging instrument." The motion requested as relief "a hearing to determine sufficiency versus insufficiency in the interest of fairness." The trial court later, after a hearing, denied that motion and Readus's motion to quash arrest, where Readus argued the officers lacked probable cause to arrest him.

¶ 6 At Readus's bench trial, Ochoa testified that, on January 10, 2012, at 7 a.m., he parked his maroon 1995 Buick Century, with license plate number K414342, in the parking lot of St. Margaret's Hospital in Hammond, Indiana, where he worked and attended classes. He locked the car and went inside to class. At the time he left, the car had no damage to the front end, no damage to the steering column, and no damage to the passenger door outside locks. Ochoa

returned to the parking lot around 4 p.m. and the car was gone. He notified the hospital security and then filed a police report with the Hammond police.

¶ 7 The next morning, a police officer showed up at Ochoa's home in Tinley Park, Illinois. Ochoa then contacted the Chicago Police Department and went to a police station around 8 a.m. He received instructions and later went to an impound lot where he was able to identify his car by its license plate number. Ochoa noticed his car had damage to the front end, the steering column, and the passenger side door, which appeared to have been pried open. At trial, he identified the VIN number and the license plate number of the 1995 Buick Century.

¶ 8 Ochoa denied giving Readus permission to drive his Buick Century and further denied even knowing Readus. On cross-examination, Readus showed Ochoa the two complaints for preliminary hearing. Ochoa stated, "it does not appear to be my handwriting."

¶ 9 Chicago police officer Jason Dugan testified that, on January 11, 2012, around 1:35 and 1:40 a.m., he was working as a uniformed patrol officer in a marked police car with Officer Guevara. At the intersection of 106th Street and Avenue E, Dugan saw a maroon Buick make a right turn northbound and head the wrong way on Avenue E, a one-way street heading southbound. Dugan activated his lights in order to pull the Buick over, but the car accelerated until 105th Street, where it made a left turn and crashed into a tree.

¶ 10 The sole occupant of the car, identified in court as Readus, got out from the driver's side door and fled behind the homes near where the crash occurred. Dugan and Guevara chased after Readus. Eventually, Readus was placed in custody. With respect to the Buick, Dugan saw damage to the front end, cracking in the windshield directly in front of where the driver would sit, and a "peeled" steering column with wires protruding, consistent with a stolen vehicle. He

further observed that, although there were no keys in the car's engine, it was still running, and the passenger's side door lock was "popped," indicating a possible stolen vehicle.

¶ 11 Dugan then provided Readus with his Miranda warnings in the presence of Guevara, and Readus stated he understood the warnings and wished to speak about the car. Dugan testified Readus stated that "Brian had stolen the car" and "Brian had allowed [defendant] to use the vehicle to go to the liquor store to make a run to the liquor store." After Readus gave this statement, Dugan checked the status of the car through the LEADS system but the information returned that the license plate number did not match the car. Dugan explained the confusion over the plates was because the Hammond police entered the wrong license plate number into the system. Dugan entered the VIN number into the LEADS system and the information returned stated the car was reported stolen from Hammond.

¶ 12 Dugan ordered a tow truck to remove the Buick and also called an ambulance because Readus had a cut above his right eye. The ambulance transported Readus to a hospital, and Dugan went to the police station to process the arrest. Dugan contacted Ochoa, the owner of the Buick, and advised him to come to the police station.

¶ 13 On cross-examination, Dugan admitted that he did not document Readus's statement in any report. Dugan further admitted that no pictures were taken to show the car was involved in an accident.

¶ 14 Chicago police officer Carlos Guevara testified consistently with Dugan as to the events on January 11, 2012. Guevara testified Readus stated "I didn't steal the car. Brian stole it. He let me borrow it to go make a beer drive." On cross-examination, Guevara stated that he had filled

out the traffic report and admitted that he checked the “no statements” box. He explained he did this because the “no statements” referred to the traffic crash itself.

¶ 15 Defense witness David Kristovic, a Chicago police lieutenant, testified that he approved the arrest report prepared by Dugan. He stated that it is not customary for him to approve all the documents in a particular case. Kristovic further testified that he does not do any independent investigation as to whether the information contained in the reports is accurate. He testified his duty is to check the reports to determine whether they demonstrate probable cause for the offenses charged.

¶ 16 The trial court found Readus guilty of possession of a stolen motor vehicle. It noted that any inconsistencies in the police reports were minor, contrary to Readus’s argument that they were significant and found Ochoa’s and the officers’ testimony to be credible. The trial court found Readus’s statement that “Brian” had stolen the car and that he was simply borrowing it to purchase alcohol to be an admission showing knowledge the vehicle was stolen.

¶ 17 The court denied Readus’s written motion for a new trial and proceeded to sentencing. It sentenced Readus to 10 years’ imprisonment as a Class X offender.

¶ 18 Background

¶ 19 On appeal, Readus argues that, because the complaints for preliminary hearing do not actually contain the complainant’s signature, this court should reverse his conviction and remand the case to allow the State to either seek an indictment or file a new complaint for preliminary hearing unmarred by false verification.

¶ 20 When a charging instrument is challenged before trial, it must strictly comply with the requirements of 725 ILCS 5/111-3. *People v. Espinoza*, 2015 IL 118218, ¶ 23. “It is well

established that the right to be charged by a verified complaint is waived if defendant proceeds to trial without raising an objection.” *People v. Wydra*, 265 Ill. App. 3d 597, 609 (1994).

¶ 21 In *People v. Bradford*, 62 Ill. 2d 21, 22 (1975), the defendant argued the complaint charging him with prostitution was defective because it was not verified by the person presenting it. *Bradford*, 62 Ill. 2d at 22. The defense did not object to the complaint until it cross-examined the complainant, who had already testified under oath to all of the facts alleged in the complaint. *Id.* Noting that “a sworn or verified complaint is not a jurisdictional prerequisite to the prosecution of a criminal offense and may be waived by a plea of guilty or by proceeding to trial without objection,” the court held that the defendant waived any defects in the verification of the complaint by proceeding to trial without objecting or raising the issue. *Id.*

¶ 22 Similarly, Readus waived any defects in the verification of the complaint by raising the issue for the first time on cross-examination of Ochoa, after all the facts alleged in the complaint were testified to. Specifically, Ochoa testified he parked his maroon 1995 Buick Century car in the parking lot of St. Margaret’s Hospital, locked the car, and returned hours later to find the car missing. He then reported to the Hammond police that his car was stolen. He later identified his car in a police impound lot and identified the VIN number and the license plate number of the car. Lastly, he testified that he did not know Readus nor did he give Readus permission to drive his 1995 Buick Century. It was not until cross-examination that Ochoa testified the signatures on both complaints did not appear to be his handwriting. Accordingly, as Ochoa had already testified to all the facts alleged in the complaint, Readus waived his argument as to the defects in the verification of the complaint. See *Bradford*, 62 Ill. 2d at 22; see also *Wydra*, 265 Ill. App. 3d at 610 (where defendant raised objection to defect in verification of complaint after complainant

had testified to all facts alleged in complaint, “[t]he effect was the same as if the State had been permitted to amend the complaint after an objection was raised during the trial”).

¶ 23 Readus also argues that, because the complaints were purportedly verified by Ochoa, he could not have known the complaints were defective and thus, his waiver should be excused. We reject this argument.

¶ 24 The court rejected this argument in *Wydra*. There, the defendant argued he could not have objected sooner to defects in the complaint because “the complaints purport on their face to have been verified and defendant could not have known they were not actually verified until he questioned [the officer] about this fact on cross-examination.” *Wydra*, 265 Ill. App. 3d at 609. The court explained, “[w]hile it may be true that defendant could not have known beforehand that the complaints were unverified, we conclude that this defect was cured before the point at which defendant raised his objection.” *Id.*

¶ 25 Ochoa testified to all facts alleged in the complaints, thus curing any defects. Accordingly, as Readus proceeded to trial without raising the issue in a pretrial motion, his argument concerning the signatures on the complaints for preliminary hearing is waived.

¶ 26 *Village of Willowbrook v. Miller*, 72 Ill. App. 2d 30 (1966), on which Readus relies, is distinguishable. In *Willowbrook*, the defendant was issued, by a police officer, an unverified “Illinois Uniform Traffic Ticket and Complaint” for, *inter alia*, reckless and careless driving. *Willowbrook*, 72 Ill. App. 2d at 32. A private citizen was listed as the complainant. *Id.* The defendant filed a motion to dismiss the complaint, arguing it was defective for lacking verification. *Id.* at 33. The trial court denied the motion and defendant was convicted. *Id.* On appeal, the appellate court reversed, finding

“if the statutory deficiency of want of verification is raised by appropriate pre-trial motion or objection, the prosecution can only proceed on a verified complaint. The want of verification having been appropriately raised in the case before us, the unverified complaint cannot sustain the judgment, and it is, accordingly, reversed.” *Id.* at 34.

¶ 27 Unlike in *Willowbrook*, Readus, as he concedes, did not raise with adequate specificity the issue of defects in the verification of the complaints in a pretrial motion. Indeed, Readus’s pretrial motion merely states “Defendant challenges the charge allegations of sufficiency of evidence. I.E. 625 ILCS 5/4-103(a)(1) charging instrument.” As this general statement is insufficient, Readus failed to raise the issue in a pretrial motion, and his reliance on *Willowbrook* is misplaced.

¶ 28 Readus concedes he failed to raise the issue with sufficient specificity in the trial court and thus, the issue has been forfeited. He argues we should review his claim under the plain-error doctrine. We reject this invitation as an independent analysis exists for challenging defects in a charging instrument. See *In re J.R.*, 342 Ill. App. 3d 310, 317 (2003) (“even under the criminal law, plain error is not implicated when a defendant challenges a charging instrument; rather, courts apply” a different analysis). A defect in a charging instrument may be attacked at any time, but the timing of the challenge affects our review. *People v. Stephenson*, 2016 IL App (1st) 142031, ¶¶ 17, 18. When the sufficiency of a charging instrument is challenged before trial, strict compliance with the statutory requirements is required. See *People v. DiLorenzo*, 169 Ill. 2d 318, 321-22 (1996). When, however, as here, the charging instrument is challenged for the first time on appeal, it must apprise “the accused of the precise offense charged with enough specificity to

(1) allow preparation of his defense and (2) allow pleading a resulting conviction as a bar to future prosecution arising out of the same conduct.” *Id.* at 322.

¶ 29 The relevant charging instrument was the information filed after the preliminary hearing. It charged possession of a stolen motor vehicle with sufficient specificity to allow Readus to prepare for trial and allow pleading a resulting conviction as a bar to future prosecution arising from the same conduct. The information further contained the relevant statutory provision and date of the offense, as well as a description of the vehicle and its owner. So, Readus cannot show he was prejudiced in preparing his defense. See *People v. Thingvold*, 145 Ill. 2d 441, 448 (1991) (when charging instrument is challenged for first time on appeal, reviewing court “should consider whether the defect in the information or indictment prejudiced the defendant in preparing his defense”).

¶ 30 Even if, as Readus contends, the complaints for preliminary hearing were the applicable charging documents, Readus’s argument fails for the same reasons. Both complaints contained the statutory provision and a description of the vehicle. One complaint also listed Ochoa as the owner. And these complaints contained sufficient detail to allow pleading a resulting conviction as a bar to future prosecution arising from the same conduct. Thus, Readus cannot show any prejudice in the preparation of his defense.

¶ 31 Affirmed.