

2017 IL App (1st) 150736-U

No. 1-15-0736

Order filed August 11, 2017

Fifth Division

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 DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 13 CR 14798
)	
ANTUAN IRVIN,)	Honorable
)	Lawrence Edward Flood,
Defendant-Appellant.)	Judge, presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Gordon and Justice Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's convictions for aggravated possession of a stolen motor vehicle and possession of a stolen motor vehicle are affirmed where inaccuracies in the certificates of title and damage to the public VIN plates would induce a reasonable person to believe that the vehicles were stolen or converted, and had falsified VINs.

¶ 2 Following a bench trial, defendant Antuan Irvin was convicted of one count of aggravated possession of a stolen motor vehicle (625 ILCS 5/4-103.2(a)(3) (West 2010)) and four counts of possession of a stolen motor vehicle (PSMV) (625 ILCS 5/4-103(a)(1), (4) (West

2010)). The trial court merged the counts and sentenced defendant to 3 years' probation on the aggravated PSMV count. Defendant appeals his convictions, arguing that the State failed to prove beyond a reasonable doubt that he had knowledge that the vehicles were stolen or converted, or had falsified vehicle identification numbers (VINs). For the reasons set forth herein, we affirm the judgment of the trial court.

¶ 3 Defendant was charged in a five count indictment. Count 1 charged defendant with aggravated PSMV in that he possessed a 2006 Ford F-650 truck, which had a value of \$25,000 or greater, with knowledge that it was stolen or converted. Counts 2 and 4 charged defendant with PSMV in that he possessed a 2007 Ecoline van with knowledge that the van was stolen or converted and had a falsified VIN. Counts 3 and 5 charged defendant with PSMV in that he possessed a 2006 Ford F-650 truck with knowledge that it was stolen or converted and had a falsified VIN. Defendant waived his right to a jury trial and the case proceeded to a bench trial.

¶ 4 Inspector Charles Becket of the Illinois State Police testified that, on August 10, 2011, he went to the location of 6804 South Campbell Avenue. When he arrived, Becket observed a van parked in the street and saw a man, whom he identified in court as defendant, standing near a dump truck about 40 feet away. Becket approached defendant and asked him if he could inspect the van. After defendant gave his consent, Becket approached the van to inspect the public VIN plate mounted on the dashboard. When he discovered that the VIN plate was obstructed by a pile of papers, Becket opened the driver's side door to move the papers.

¶ 5 Upon opening the door, Becket noticed that the federal safety certification label, which is placed on all modern vehicles by the manufacturer, was missing from the door jam. Federal safety certification labels display the VIN of the vehicles on which they are placed. Becket slid

the papers off the public VIN plate located on the dashboard, and observed that the plate contained a few scratches. It also appeared to Becket that the rivets securing the plate to the dashboard had been manipulated or tampered with. Becket next used an on-board diagnostics scanner to access the van's electronic control module and viewed the VIN that was associated with the van. The VIN logged on the van's electronic control module did not match the public VIN on the dashboard.

¶ 6 Becket also located the secondary VIN, which was stamped on the frame of the van by the manufacturer, and discovered that it did not match the public VIN displayed on the dashboard. It did match the VIN logged in the van's electronic control module. Based on this information, Becket determined that the VIN on the dashboard was not the van's true VIN. Becket took a photograph of the van's instrument panel, which depicted that the van had 30,006 miles on its odometer.

¶ 7 After inspecting the van, Becket spoke with defendant about the dump truck that was located nearby. Defendant explained that the truck belonged to a friend and how he had registered the truck in his name for the friend. Defendant stated that he sometimes used the truck for his construction business. He produced the certificate of title for the truck, which indicated that the truck was a 1997 Ford model F-800. However, Becket noticed that the badge on the truck identified the truck as a model F-650. Becket asked defendant if he knew of any issues with the truck. Defendant answered that he did not know of any issues with the truck, and gave Becket permission to inspect it.

¶ 8 Becket examined the public VIN displayed on the truck's dashboard. The plate was scratched and the metal underneath the rivets fastening the plate to the dashboard was damaged.

He compared the public VIN to the secondary VIN stamped on the truck's frame and discovered that they did not match. Becket learned that the VIN stamped on the truck's frame belonged to a 2006 Ford model F-650 dump truck. He then informed defendant that the truck was to be seized. After Becket removed the VIN plate from the dashboard, he observed that adhesive had been applied to its back side. Becket explained that no vehicle manufacturer uses adhesive to attach VIN plates to dashboards.

¶ 9 On cross-examination, Becket explained that defendant was cooperative throughout his investigation. He testified that he had received special training to determine whether a VIN is the true VIN associated with a vehicle and that he did not witness defendant tamper with the VIN plates located in either vehicle. On redirect, Becket clarified that the Ecoline van he inspected on August 11, 2011, was a 2007 Ecoline titled to Westfield Insurance Company, but that the public VIN plate located on the dashboard was associated with a 1997 Ecoline van that was titled to defendant. He also clarified that the truck he inspected on that date was a 2006 F-650 that was titled to Cincinnati Insurance Company, and that the public VIN plate located on its dashboard was associated with a 1997 F-800 that was titled to defendant.

¶ 10 Jeffrey Lazarski testified that he was an investigator for the Cincinnati Insurance Company and that he was assigned to investigate the theft of the 2006 F-650 dump truck. The company had title to that truck on August 10, 2011, and had not given defendant permission to have possession of the vehicle. Lazarski also testified that the value of the truck was \$41,000.

¶ 11 The State then proceeded by way of stipulation. The parties stipulated that, if called to testify, Doug Allen would testify that he was an agent for Legendary Auctions and that the company insured a 2007 Ford Ecoline van with Westfield Companies. Legendary Auctions

owned the van prior to June 1, 2011, and had not given defendant permission to possess the vehicle on August 10, 2011. The parties also stipulated that Robert Hunt would testify that he was an investigator for Westfield Companies. He would state that the company paid a claim to Legendary Auctions for the 2007 Ford van and that it had not given defendant permission to possess the van on August 10, 2011.

¶ 12 The State entered into evidence certified copies of certificates of title for the 2006 Ford model F-650, 1997 Ford model F-800, 2007 Ford Ecoline van, and 1997 Ford Ecoline van. The certificate of title for the 1997 Ford Ecoline van, signed by defendant and dated January 3, 2006, displayed an odometer reading of 142,000 miles.

¶ 13 Following argument, in which defendant argued that the State failed to prove that he had knowledge that the van and the truck were stolen, the trial court found defendant guilty of all counts. The court merged the PSMV counts into the aggravated PSMV count and sentenced defendant to three years' probation.

¶ 14 Defendant appeals, arguing that the State failed to prove beyond a reasonable doubt that he knew that the vehicles had been stolen or converted, or had falsified VINs.

¶ 15 When determining the sufficiency of the evidence, the standard of review is whether, after viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Wilkerson*, 2016 IL App (1st) 151913, ¶ 64. This means that we must draw all reasonable inferences from the record in favor of the prosecution, and that “ ‘[w]e will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a

reasonable doubt of defendant's guilt.' ” *People v. Lloyd*, 2013 IL 113510, ¶ 42 (quoting *People v. Collins*, 214 Ill. 2d 206, 217 (2005)).

¶ 16 As relevant to the instant case, a person commits PSMV if he possesses a motor vehicle that he knows to be stolen or converted, or has knowledge that the identification number of the motor vehicle has been removed or falsified. 625 ILCS 5/4-103(a)(1), (4) (West 2010). A person commits aggravated PSMV if the unlawfully possessed motor vehicle has a value of \$25,000 or more. 625 ILCS 5/4-103.2(a)(3) (West 2010). Knowledge is a question of fact to be resolved by the trier of fact. *People v. Abdullah*, 220 Ill. App. 3d 687, 690 (1991). “Direct proof of knowledge is not necessary; it may be proven by ‘circumstances that would induce a belief in a reasonable mind that the property was stolen.’ ” *People v. Jacobs*, 2016 IL App (1st) 133881, ¶ 53 (quoting *Abdullah*, 220 Ill.App.3d at 690).

¶ 17 Defendant concedes that the State proved that he possessed the two vehicles without authority. The PSMV statute states that “it may be inferred” that “a person exercising exclusive unexplained possession over a stolen or converted vehicle has knowledge” that the vehicle is stolen or converted. 625 ILCS 5/4-103(a)(1) (West 2010). Arguably, therefore, the inference is that defendant knew the vehicles were stolen or converted. He argues, however, that the State failed to prove that he knew that they were stolen or converted, or had falsified VINs. See *Jacobs*, 2016 IL App (1st) 133881, ¶ 53 (while a defendant may attempt to rebut the inference, a tier of fact is not required to accept the defendant's version of the facts).

¶ 18 We hold that the evidence viewed in the light most favorable to the State supports defendant's convictions for PSMV and aggravated PSMV. In regard to the 2007 van, the public VIN of the van was for a 1997 Ford Ecoline van. The certificate of title for the 1997 Ford

Ecoline van, which defendant signed, indicated that the van had 142,000 miles on the odometer. However, the photograph of the actual van's odometer shows that the van had traveled 33,000 miles. The fact that the van had 100,000 less miles on the odometer than shown on the title would induce a reasonable person to believe that the van had been stolen or was converted. Similarly, this information, coupled with the scratches on the public VIN plate located on the van's dashboard, would induce a reasonable person to believe that the van's VIN had been falsified.

¶ 19 In regard to the dump truck, the title to the truck, which defendant had previously signed and which he presented to Becket, indicated that the truck was a Ford model F-800. However, Becket testified that the badge on the truck showed that the truck was a model F-650. Indeed, photographs of the truck, entered into evidence without objection from defendant, show that the truck was clearly marked as a model F-650 XL Super Duty. Faced with this discrepancy, a reasonable person would be induced to believe that the truck was stolen or converted. Similarly, as with the van, this information, coupled with the scratches on the public VIN plate, would induce a reasonable person to believe that the truck's VIN had been falsified.

¶ 20 Defendant notes that this court has held that “[t]he condition of the vehicle is one of the most significant factors” in determining whether defendant has knowledge that the vehicle was stolen or converted. *Abdullah*, 220 Ill. App. 3d at 691. While visible damage to a vehicle, such as a peeled steering column, loose wires, or broken locks, can be a strong indicator of a defendant's knowledge that the vehicle was stolen or converted, absence of damage does not necessarily lead to a determination that the defendant did not have such knowledge. See *Jacobs*, 2016 IL App (1st) 133881, ¶ 59 (upholding a trial court's determination that defendant had knowledge that the

vehicle was stolen or converted despite the “pristine condition” of the vehicle). Here, the State’s evidence was not so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt that defendant had knowledge that the vehicles were stolen or converted, and had falsified VINs. Accordingly, we will not disturb the trial court’s determination that defendant was guilty of aggravated PSMV and PSMV.

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

¶ 22 Affirmed.