

NOTICE

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2017 IL App (4th) 150009-U

NO. 4-15-0009

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

April 5, 2017
Carla Bender
4th District Appellate
Court, IL

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| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from |
| Plaintiff-Appellee, |) | Circuit Court of |
| v. |) | McLean County |
| LARRON D. CARROLL, |) | No. 13CF136 |
| Defendant-Appellant. |) | |
| |) | Honorable |
| |) | Scott Daniel Drazewski, |
| |) | Judge Presiding. |

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Appleton and Knecht concurred in the judgment.

ORDER

- ¶ 1 *Held:* The evidence was sufficient to prove the necessary *mens rea* for possession of a stolen firearm.
- ¶ 2 A jury found defendant, Larron D. Carroll, guilty of involuntary manslaughter and possession of a stolen firearm. The evidence established that defendant shot and killed the victim using a stolen revolver. After the shooting, police found the revolver on the ground near the apartment building where the shooting occurred. The revolver’s manufacturer’s name had been partially scratched off from the face of the gun. The trial court sentenced defendant to concurrent prison terms of 5 1/2 years for involuntary manslaughter and 4 years for possession of a stolen firearm.
- ¶ 3 Defendant appeals, arguing that the evidence was insufficient to prove him guilty beyond a reasonable doubt of possession of a stolen firearm because the State failed to prove that he knew that the firearm was stolen. We disagree and affirm.

¶ 4

I. BACKGROUND

¶ 5 In February 2013, the State charged defendant with first degree murder (720 ILCS 5/9-1(a)(2) (West 2012)), involuntary manslaughter (720 ILCS 5/9-3(a) (West 2012)), and possession of a stolen firearm (720 ILCS 5/24-3.8(a) (West 2012)).

¶ 6 At the October 2014 jury trial, Kalin Ware testified that on the afternoon of January 21, 2013, he gave defendant a ride to the apartment of Kuantrae Massey in the Ginger Trail apartment complex in Bloomington, Illinois. Kuantrae and his brother, Wanyae Massey, were at the apartment. While defendant was sitting on the couch, he pulled out a revolver. Ware did not see from where defendant retrieved the gun. Defendant began playing with the gun and spinning the cylinder. Defendant then moved his hand as if he were loading a bullet into the cylinder. Defendant reengaged the cylinder, pointed the gun at Ware, and pulled the trigger. The gun clicked but did not fire. Ware stood up and turned away from defendant. Ware then heard the gun fire. He turned around and saw Kuantrae lying on the floor.

¶ 7 Wanyae testified that he was at Kuantrae's apartment on January 21, 2013, with defendant, Kuantrae, and Ware. While Wanyae was in a back room, he heard a loud bang in the living room. When Wanyae returned to the living room, he saw Kuantrae bending over and holding his chest. Wanyae, defendant, and Ware put Kuantrae in Ware's car and drove him to the hospital.

¶ 8 Bloomington police officer Aaron Veerman testified that he spoke with defendant and Wanyae at the hospital, just after the shooting. Defendant told Veerman that Kuantrae was having problems with two other men and that immediately before getting shot, Kuantrae left the apartment. Wanyae then interjected and said that Kuantrae was inside the apartment when he was shot. Defendant responded, saying that Kuantrae left the apartment for approximately five

minutes while Wanyae was not looking and that when Kuantrae returned, he was holding his chest.

¶ 9 Bloomington police officer Scott Matthewson testified that he found a Taurus .357 Magnum revolver and a green shopping bag containing ammunition behind defendant's apartment building.

¶ 10 Bloomington police officer Clayton Arnold testified that he assisted with the investigation at Ginger Trail and observed the firearm that was found in the complex's backyard. Arnold testified that State's exhibit No. 99 was a photograph of the gun as it appeared when discovered by Arnold and other officers. The photograph was a close-up view of the manufacturer's markings engraved above the trigger of the gun. The words "TAURUS INT MFG" were legible despite multiple scratches appearing over the top of the letters.

¶ 11 Forensic scientist John Dierker testified that he found a latent fingerprint on the gun that matched defendant's fingerprint.

¶ 12 Charles Wainman testified that in November 2012, his home at Ginger Trail was broken into and his Taurus .357 Magnum revolver was stolen along with a green shopping bag filled with ammunition. The State introduced into evidence the green bag found at the scene, which Wainman identified as the green bag of ammunition stolen from his home. The State showed Wainman pictures of the Taurus .357 Magnum revolver recovered by police. Wainman identified the revolver by its serial number as the one stolen from his home. Wainman testified that the scratches over the manufacturer's name were not on the gun when it was stolen from his home.

¶ 13 Bloomington police department detective William Lynn testified that he found a photograph on defendant's cellular phone showing a Taurus .357 Magnum revolver lying on a

bed next to a Ziploc bag full of ammunition. The revolver did not have any scratches over its manufacturer's markings. Lynn testified that the picture was taken on December 24, 2012. Another picture on the phone—taken January 21, 2013—showed defendant pointing a handgun at a mirror while using the phone to photograph himself.

¶ 14 The jury acquitted defendant of first degree murder but found him guilty of involuntary manslaughter and possession of a stolen firearm. The trial court sentenced him to concurrent terms of 5 1/2 years for involuntary manslaughter and 4 years for possession of a stolen firearm.

¶ 15 Defendant appeals, arguing that the evidence was insufficient to prove beyond a reasonable doubt that he knew the gun was stolen. We disagree and affirm.

¶ 16 II. ANALYSIS

¶ 17 Defendant argues that the evidence was insufficient to prove him guilty beyond a reasonable doubt of possession of a stolen firearm. Defendant does not take issue with the sufficiency of the evidence to prove that he possessed the gun or that he used it to kill the victim. Defendant's precise argument on appeal is that the evidence was insufficient to prove that he had *knowledge* that the firearm was stolen, an essential element of the offense of possession of a stolen firearm. We disagree.

¶ 18 A. Standard of Review

¶ 19 Due process requires the State to prove every element of an offense beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364 (1970). When deciding a challenge to the sufficiency of the evidence, a court of review must determine whether, viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the offense satisfied beyond a reasonable doubt. *People v. Wheeler*, 226 Ill. 2d 92, 114, 871

N.E.2d 728, 740 (2007).

¶ 20 B. Possession of a Stolen Firearm

¶ 21 Section 24-3.8(a) of the Criminal Code of 2012 (Criminal Code) provides the following definition for the offense of possession of a stolen firearm:

“A person commits possession of a stolen firearm when he or she, not being entitled to the possession of a firearm, possesses the firearm, knowing it to have been stolen or converted. The trier of fact may infer that a person who possesses a firearm with the knowledge that its serial number has been removed or altered has knowledge that the firearm is stolen or converted.” 720 ILCS 5/24-3.8(a) (West 2012).

¶ 22 C. The Evidence in This Case

¶ 23 In this case, the evidence established that defendant possessed the stolen Taurus .357 Magnum revolver while knowing it was stolen. The picture recovered from defendant’s cell phone, which was taken on December 24, 2012, showed the revolver without any scratches. The same gun was recovered immediately after the shooting behind Ginger Trail with the manufacturer’s name scratched off. Defendant does not contest that he possessed the gun and used it to shoot the victim immediately before the gun was discovered behind the building where the shooting occurred. That evidence was sufficient to establish that defendant possessed the gun while its manufacturer’s information was scratched off, which, in turn, is sufficient to establish that he possessed the gun with knowledge that it was stolen.

¶ 24 The evidence in this case establishes that defendant possessed the firearm in question before an attempt was made to scratch off the manufacturer’s engraved markings, which was the firearm’s condition at the time defendant used it to shoot Kuantre Massey. This evidence al-

lows for only two possibilities, either of which establishes that defendant knew the gun was stolen.

¶ 25 The first possibility is that defendant himself scratched off the manufacturer's information. Under that scenario, defendant's act of altering the gun's labeling shows his intent to hide an identifying characteristic that could help trace the firearm back to its rightful owner. That is, defendant's scratching establishes that he knew the gun was stolen and was hoping to make it more difficult to trace back to its rightful owner.

¶ 26 Under the second possibility, defendant did not make the scratches but possessed the gun knowing that the manufacturer's information had been scratched off by someone else. Under that scenario, a reasonable person would surmise that the gun was stolen because "Why else would the labeling be scratched off?" The scratching of identifying information from a firearm is strong circumstantial evidence that the firearm is stolen. Therefore, under either scenario, if defendant possessed a firearm with an altered model name, that evidence alone would be sufficient to prove that he knew the gun was stolen.

¶ 27 The statutory language defining the offense of possession of a stolen firearm supports our reasoning. Section 24-3.8(a) of the Criminal Code provides the following:

"The trier of fact may infer that a person who possesses a firearm with the knowledge that its serial number has been removed or altered has knowledge that the firearm is stolen or converted." 720 ILCS 5/24-3.8(a) (West 2012).

Although, in this case, the manufacturer's name was altered instead of the serial number, the same logic nonetheless applies. That is, the alteration of identifying information on a firearm supports the inference that the person in possession of that firearm knows that it is stolen. In this case, no evidence supported the opposite conclusion.

¶ 28 Defendant emphasizes the lack of evidence proving that he took part in the burglary of Wainman's residence. But the State was not required to prove that defendant stole the firearm. Instead, the State needed to prove that defendant *knew* the firearm was stolen, regardless of who stole it from Wainman.

¶ 29 In this case, the evidence established that defendant possessed the firearm with an altered manufacturer's name, which was sufficient to prove that defendant possessed the firearm with knowledge that it was stolen.

¶ 30 III. CONCLUSION

¶ 31 For the foregoing reasons, we affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002(a) (West 2014).

¶ 32 Affirmed.