

2019 IL App (1st) 153238-U

No. 1-15-3238

Order filed March 14, 2019

Fourth 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. 14 CR 19128
)	
SEANDELL ANDERSON,)	Honorable
)	Mary Margaret Brosnahan,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Ellis and Burke concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction for residential burglary affirmed where the evidence sufficiently established that he knowingly entered the house without authority, and with the intent to commit theft therein.

¶ 2 Following a bench trial, defendant Seandell Anderson was convicted of residential burglary and sentenced to six years' imprisonment. On appeal, defendant contends that the State failed to prove him guilty beyond a reasonable doubt because it did not prove that he knowingly entered the home without authority. He further argues that the evidence did not show that he

intended to commit theft when he entered, or that he was accountable for his codefendant's conduct. Defendant also contends that the trial court's judgment was based on its finding that codefendant's testimony was not credible, but such finding was not properly based on the evidence. We affirm.

¶ 3 Defendant and codefendants Zedrick Threatt and Marcus Grimes were charged with one count of residential burglary. Codefendants pled guilty as charged and were sentenced to four years' imprisonment with recommendations for boot camp. They are not parties to this appeal.

¶ 4 At defendant's trial, Chicago police officer Turcinovic testified that about 5:20 p.m. on October 17, 2014, he and his partner, Officer Gorski, responded to a call of a burglary in progress at a single family home on North Waller Avenue. Several other officers also responded to the call. Turcinovic and Gorski approached the back of the house and observed the basement door slightly ajar. Defendant peeked his head through the opening. Turcinovic identified defendant in court. Turcinovic announced they were the police and told defendant "[l]et me see your hands." Defendant fled into the interior of the home. Turcinovic ran inside the house and saw defendant and another man run up the stairs to the first floor. Turcinovic observed codefendant Grimes hiding behind the basement door and handcuffed him. Defendant and the other man were detained by other officers. Turcinovic observed that both the basement door and the door leading from the basement to the first floor had been kicked in, and there was a footprint on the door that led to the first floor.

¶ 5 On cross-examination, Turcinovic acknowledged that he did not see any appliances or furniture stacked outside the home. He did not recall what types of items were in the basement, but thought there were possibly some two-by-four pieces of wood.

¶ 6 Chicago police officer Scanlon and her partner, Officer Trevino-Duffy, also responded to the burglary in progress call. The lights and sirens on their marked squad car were activated as they arrived at the scene. Scanlon approached the rear basement door with Turcinovic and Gorski. Turcinovic, who was in the lead, said he saw someone inside the house close the door. Turcinovic and Gorski entered the home. Scanlon entered shortly thereafter and observed that Turcinovic and Gorski had detained a man in the basement. Scanlon asked Turcinovic if that was the man he observed, and he replied “[n]o. He ran up the stairs.” Scanlon ran upstairs to the first floor and unlocked the front door, allowing other officers to enter the home. Scanlon observed defendant in the living/dining room area. She ordered defendant to get on his knees, and he complied. Officer Van Pelt arrested defendant. Scanlon identified defendant in court.

¶ 7 Scanlon went upstairs to the second floor to clear the house, checking each room. In the last room, she saw codefendant Threatt behind a curtain, halfway out the window. Scanlon ordered him to stop and return inside. Threatt looked at Scanlon and jumped out the window. Scanlon identified a photograph of Threatt in court. Scanlon ran outside and saw that Threatt had been detained by other officers in the front yard.

¶ 8 Scanlon observed that both the exterior basement door and the interior door leading from the basement to the first floor had been kicked in. There was a footprint on the interior door and it was off its hinges. The first floor of the home was in complete disarray. In a woman’s bedroom on the second floor, clothing was strewn about, drawers were open, items were missing from a shelving unit, and paperwork and other items covered the floor. A “little girl’s room” was also in disarray with drawers open.

¶ 9 Scanlon contacted the homeowner, Felicia Williams. When Williams arrived home, she and Scanlon walked through the house, and Williams indicated items were missing. Scanlon did not recall smelling burnt cannabis inside the home, and no cannabis was found therein.

¶ 10 On cross-examination, Scanlon acknowledged that she was not aware of any proceeds from a burglary or theft being recovered from defendant. Scanlon requested an evidence technician to process the scene, but subsequently learned that one never arrived.

¶ 11 The State presented a stipulation that Felicia Williams would testify that she lived at the subject house. She did not know defendant or codefendants, and did not give any of them permission to be inside her home. On the day of the burglary, Williams met with Scanlon and other officers inside her home. Williams observed signs of forced entry. Both the exterior basement door that led outside and the interior door that led from the basement to the first floor appeared to be kicked in. Neither of those doors was in that condition when Williams left her home. Williams' bedroom had been ransacked with clothing, paperwork and other items strewn about the floor. Dresser drawers had also been opened in her daughter's bedroom. The bedrooms were not in that condition when Williams left her house earlier that day. A small television was missing from Williams' bedroom, and a credit card was also missing from her home.

¶ 12 Codefendant Zedrick Threatt testified for the defense that he knew defendant from the neighborhood and they had been friends for a couple of years. Threatt acknowledged that he had been convicted of the residential burglary of the house on Waller and was serving a prison term. On the date in question, Threatt had gotten off work from his job with a temporary service in Broadview. He was walking to his aunt's house, which was in the same area where he was arrested. Threatt ran into defendant and Grimes, and they decided to smoke some marijuana.

Threatt told defendant that they could go to his aunt's house to do so. However, the house they went to on Waller was not his aunt's. Threatt had been at the Waller house on a prior date, but could not recall when. Defendant was not with him on the prior occasion. Threatt denied being at the house earlier that day.

¶ 13 When they arrived at the house, they went to the basement door. Threatt denied kicking in the door and testified it was already open. Threatt and Grimes entered the basement. Defendant stood in the doorway and did not enter the house. The three men remained in the basement smoking marijuana for 10 to 15 minutes. They were about to leave the house when Grimes said he saw the police. Threatt ran upstairs inside the house because he knew that he was not supposed to be there. The door leading from the basement to the first floor was open. Threatt had been upstairs before and knew the door was open. Defendant did not go upstairs with him earlier. Threatt ran to the front door, but saw more officers there. He ran upstairs to the second floor and climbed out a window. Threatt did not see where defendant went.

¶ 14 On cross-examination, Threatt testified that he first met defendant in eighth grade. He was walking to his baby's mother's house at Leamington and Lake when he saw defendant and Grimes a few blocks away. Threatt testified that he went to the Waller house a month earlier with some other friends, not defendant. The basement door was also open on that date.

¶ 15 This time the basement door was off its hinges, and there were several boxes, garbage bags, and items all over the floor. Threatt remained in the basement smoking cannabis. When the police arrived, Threatt ran upstairs to the farthest room on the second floor. He threw three small bags of marijuana underneath the bed, and climbed out the window. When a female officer saw him, he dropped to the ground below. Threatt attempted to flee the yard, but was arrested by

police. Threatt acknowledged that the police found Williams' credit card in his pocket. He claimed that he found the card on the basement floor and used it to "break down" the marijuana.

¶ 16 Pursuant to questions from the court, Threatt acknowledged that he did not know who lived in the house, and that it was a random house he had entered a month earlier. Threatt could not tell if anyone was living there because everything was packed in boxes and garbage bags.

¶ 17 The trial court stated that it was "inconceivable" that Threatt was being truthful when he testified that the basement door had been left unrepaired, allowing people to enter, because that would not be the actions of someone who wanted to be safe. The court pointed out that Williams' testimony showed that the basement doors had been kicked in and were not in that condition when she left the house that day. The court found that Threatt's testimony was not credible "in any way, shape or form" and "completely defie[d] any kind of logic or sense." The court stated that Threatt "just picks this house out of the blue that he was at some month before and he didn't know who was there and magically they got there." The court noted that the door had been broken into, but Threatt claimed they had nothing to do with the burglary or ransacking of the home. It further noted that Threatt had the credit card in his pocket when he was caught fleeing.

¶ 18 The court found that the three codefendants acted together, and therefore, were all accountable for the credit card found in Threatt's possession. Accordingly, the court found defendant guilty of residential burglary, and sentenced him to six years' imprisonment.

¶ 19 On appeal, defendant contends that the State failed to prove him guilty beyond a reasonable doubt because it failed to prove that he knowingly entered the home without authority. He further argues that the evidence did not show that he intended to commit theft when he entered, or that he was accountable for Threatt's act of taking the credit card. Defendant

also contends that the trial court's judgment was based on its finding that Threatt's testimony was not credible, but such finding was not properly based on the evidence.

¶ 20 The State responds that defendant's entire argument rests on the assumption that Threatt's testimony should have been believed; however, the trial court found his testimony not credible "in any way, shape or form." The State argues that the evidence was sufficient to sustain the conviction where it established that defendant and codefendants entered Williams' home without authority by kicking in her door. The State further argues that the trial court could infer defendant's intent to commit theft from the totality of the circumstances, including the evidence that the house was ransacked and Threatt was found in possession of Williams' credit card.

¶ 21 When defendant claims that the evidence is insufficient to sustain his conviction, this court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements of the offense proved beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). This standard applies whether the evidence is direct or circumstantial, and does not allow this court to substitute its judgment for that of the fact finder on issues involving witness credibility and the weight of the evidence. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42.

¶ 22 In a bench trial, the trial court is responsible for determining the credibility of the witnesses, weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences from therein. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). We will not reverse a criminal conviction based upon insufficient evidence unless the evidence is so

improbable or unsatisfactory that there is reasonable doubt as to defendant's guilt (*People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011)), nor simply because defendant claims that a witness was not credible or that the evidence was contradictory (*Siguenza-Brito*, 235 Ill. 2d at 228).

¶ 23 To prove defendant guilty of residential burglary in this case, the State was required to show that he, knowingly and without authority, entered the dwelling of Felicia Williams with the intent to commit a theft therein. 720 ILCS 5/19-3(a) (West 2014).

¶ 24 Defendant first contends that the State failed to prove that he knowingly entered the house without authority because the evidence showed that Threatt told defendant that it was his aunt's house. Defendant argues that there is no evidence that he knew that Threatt lacked authority to enter the house or to bring defendant with him.

¶ 25 A person acts with knowledge of the nature or attendant circumstances of his conduct, described by the statute defining the offense, when he is consciously aware that his conduct is of such nature or that such circumstances exist. 720 ILCS 5/4-5(a) (West 2014). Due to its very nature, knowledge is usually proven by circumstantial evidence, and thus, may be inferred from the facts and circumstances in the case. *People v. Hernandez*, 2012 IL App (1st) 092841, ¶ 118.

¶ 26 Here, the evidence showed that both the exterior door leading into the basement from outside and the interior door leading from the basement to the first floor had been kicked in and were open. The house had been ransacked and was in disarray, with clothing, paperwork and other items strewn about the floor. From these facts alone the trial court could infer that defendant knew that he and his codefendants were entering the house without authority. Although Threatt testified that he told defendant that it was his aunt's house, the trial court found

that testimony not credible. It was the duty of the trial court to weigh the evidence and draw reasonable inferences from therein, and we will not disturb the court's finding.

¶ 27 Defendant next contends that the State failed to prove that he intended to commit theft when he entered the house, or that he was accountable for Threatt's act of taking Williams' credit card. Defendant maintains that the evidence showed that he and codefendants entered the house to smoke marijuana, and that he never left the basement. Defendant asserts that his mere presence in the house is not sufficient to hold him accountable for Threatt's conduct.

¶ 28 Similar to knowledge, intent is usually proven by circumstantial evidence and inferred from the surrounding circumstances in the case. *People v. Maggette*, 195 Ill. 2d 336, 354 (2001). Relevant circumstances include the time, place, and manner of entry into the residence; defendant's activity inside the residence; and any alternative explanations for his presence. *Id.* Whether the requisite intent existed is a determination made by the trier of fact, and on review, we will not disturb that finding unless there is reasonable doubt as to defendant's guilt. *Id.*

¶ 29 A person is legally accountable for another's conduct when, either before or during the commission of an offense, and with the intent to promote or facilitate its commission, he solicits, aids, abets, agrees or attempts to aid the other person in the planning or commission of that offense. 720 ILCS 5/5-2(c) (West 2012); *People v. Fernandez*, 2014 IL 115527, ¶ 13. To prove that defendant had the intent to promote or facilitate the offense, the State may present evidence that either (1) defendant shared the criminal intent of his codefendant, or (2) there was a common criminal design. *Id.* Factors the trier of fact may consider when determining defendant's accountability include his presence during the offense, his flight from the scene, his close affiliation with his companion after the offense, and his failure to report the crime. *People v.*

Perez, 189 Ill. 2d 254, 267 (2000). Although mere presence at the scene, even when combined with flight from the scene, may not establish accountability, where the evidence shows that defendant intentionally aided in the commission of the offense, he is accountable. *Id.* at 268; *People v. Taylor*, 186 Ill. 2d 439, 446-49 (1999).

¶ 30 Here, viewed in the light most favorable to the State, we find that the evidence was sufficient for the trial court to infer that defendant entered the house with his codefendants with the intent to commit theft. Again, the evidence showed that Williams' house had been forcibly entered and ransacked. Williams' testimony further showed that a television and credit card were missing from her home. These circumstances were enough to establish defendant's intent to commit theft. *Maggette*, 195 Ill. 2d at 354.

¶ 31 In addition, we reject defendant's argument that he could not be held accountable for the credit card found in Threatt's possession. The trial court found that defendant was accountable because he acted together with Threatt and Grimes. The record shows that the court's findings were based on reasonable inferences drawn from the evidence, and we will not disturb those determinations. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 32 Finally, defendant contends that the State failed to prove him guilty beyond a reasonable doubt because the trial court's judgment was based on its finding that Threatt's testimony was not credible, but such finding was not properly based on the evidence. Defendant claims the court misstated the evidence when it said Threatt picked "this house out of the blue" where Threatt testified that he had been to the house on a prior occasion. Defendant claims the court stated that Threatt did not know who he was with at the house on the prior occasion, but Threatt testified he was there with "other friends" and was not asked who those friends were. He also

takes issue with the court's comment that "magically they got there" where Threatt testified that he was walking down the street when he ran into defendant and Grimes. In addition, defendant asserts that the court relied on pure conjecture when it found that it was inconceivable that Williams would have left her basement door unrepaired, allowing people to enter her home.

¶ 33 Defendant's argument is without merit. The record shows that, although the trial court found Threatt's testimony not credible, that finding was not the sole basis for the guilty finding. When announcing its finding, the court noted that Williams' stipulated testimony showed that both basement doors had been kicked in, and that they were not in that condition when Williams left her home that day. It further noted that the house had been ransacked, and that the police recovered Williams' credit card from Threatt's pocket when they caught him fleeing the scene. This evidence was sufficient for the court to find defendant guilty of residential burglary.

¶ 34 Moreover, when read in full context, as presented above, the court's comments did not amount to conjecture or misstate Threatt's testimony. Instead, the comments illustrate why the court found his testimony not credible "in any way, shape or form," and why it "completely defie[d] any kind of logic or sense." The determination of the credibility of Threatt's testimony was entirely within the province of the trial court, and based on this record, we find no reason to disturb the court's finding. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 35 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 36 Affirmed.