

2019 IL App (1st) 162652-U

No. 1-16-2652

Order filed May 16, 2019

Fourth Division

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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. 16 CR 2738
)	
CLIFTON RICE,)	Honorable
)	James B. Linn,
Defendant-Appellant.)	Judge, presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice McBride and Justice Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence presented at trial was sufficient to prove defendant guilty of residential burglary beyond a reasonable doubt.

¶ 2 Following a bench trial, defendant Clifton Rice was convicted of residential burglary and sentenced to 54 months in prison. On appeal, defendant challenges the sufficiency of the evidence, acknowledging that he was in possession of stolen property, but arguing that the only

evidence tying him to the residential burglary was a police officer's incredible testimony that he confessed. For the reasons that follow, we affirm.

¶ 3 Defendant was charged by information with one count of residential burglary for burglarizing a Chicago apartment on November 19, 2015. Prior to trial, defense counsel reported to the court that defendant was on medication for schizophrenia, and the court ordered a behavioral clinical examination (BCX). The clinical psychologist who evaluated defendant concluded defendant was legally sane at the time of the alleged offense, stating, "There is nothing to suggest that he was suffering from a mental disorder or mental defect that would have led him to lack substantial capacity to appreciate the criminality of his conduct at the time of the events at issue."

¶ 4 At trial, Marshall Fenty testified that, on November 19, 2015, he lived in an apartment on the 2200 block of South Marshall Boulevard. That morning, Fenty left home sometime between 7 and 8 a.m., and he got home from work around 7 p.m. Fenty's roommate, Sam Pastore, was not at home when Fenty left or when Fenty returned. When Fenty returned home, he found the apartment's front door open, and it seemed to him that both the handle and the bolt lock had been tampered with. Several lights were on inside the apartment. Once Fenty looked around, he realized that some of his belongings were missing, including a television, two electric guitars, an electric bass, two digital cameras, a manual film camera, and several camera lenses. Fenty called the police, who came to his apartment and interviewed him. Later, Chicago police detective Tom Pappas called Fenty and told him to come to the police station to retrieve his belongings. Fenty went to the station, where he recovered two electric guitars, an electric bass, an amplifier, a guitar stand, and one camera lens.

¶ 5 When the prosecutor pointed out defendant in court, Fenty stated that he did not know him. He further stated that he did not give defendant permission or authority to enter his home or remove any property from it.

¶ 6 Cesar Vargas testified that, on November 19, 2015, he was working as a pawnbroker at a Cash America pawn shop located at 2337 West Cermak Road. About 1:45 p.m. that day, he bought three items from defendant: an electric guitar, a guitar stand, and an amplifier. During the pawn transaction, defendant produced his driver's license. As part of the ordinary course of business, Vargas entered defendant's identification information, the serial number of the guitar, and the make or brand model of the stand and amplifier into an online database. Vargas testified that the pawn shop was equipped with video surveillance cameras, which recorded the transactions he conducted with defendant. The State played the video, and Vargas identified defendant in the video and in court.

¶ 7 Vargas testified that defendant came back to the pawn shop later that same day to sell a television. Again, Vargas entered defendant's identification information and the serial number of the television into the online database.

¶ 8 Reyna Torres testified that, on November 19, 2015, she was a manager of a Cash America pawn shop located at 26th Street and Central Park Avenue. Sometime after that date, she had an interaction with Chicago police detective Tom Pappas regarding transactions that occurred at 4:18 p.m. and 4:34 p.m. on November 19, 2015. During those transactions, an employee of the pawn shop had purchased an electric guitar and a camera lens from defendant and entered identification information from defendant's driver's license and the serial numbers of the items into an online database. Torres testified that the pawn shop maintained video

surveillance cameras, which recorded the transactions with defendant. She gave the detective a copy of the video depicting those transactions, and the recording was played in court. The detective also seized the electric guitar and camera lens.

¶ 9 Chicago police detective Tom Pappas testified that he was assigned to investigate the burglary of Fenty's apartment. He interviewed Fenty, obtained descriptions of the items missing from his apartment, and entered the information into an online database that tracks sales at area pawn shops. The database search resulted in "hits" at two pawn shops. Pappas then went to the pawn shops, where he confirmed that the listed items existed and retrieved video footage from the shops' security cameras. The database also generated "pawn tickets" for the items, which indicated that defendant was the seller. The items were sold on November 19, 2015, at 4:34 p.m. and 5:11 p.m. Pappas entered defendant's information into a separate police database, which allowed him to generate a photograph of defendant. Pappas identified defendant in court. Pappas also recovered various items from the pawn shops and contacted Fenty, who came to the police station and identified his property.

¶ 10 Pappas testified that an investigative alert was issued for defendant. On February 7, 2016, defendant was arrested in the courtyard of Fenty's apartment building. Pappas noted that defendant also resided in that apartment building, and that there were security cameras on the outside the building. Pappas spoke with the property manager of the apartment building, who informed him they were "dummy cameras" which were placed on the building as a deterrent but did not actually record any video.

¶ 11 Defendant was transported to the police station. There, Pappas and another detective, Detective Loaiza, informed defendant of his *Miranda* rights. Defendant waived those rights and

agreed to speak with the detectives regarding the burglary. Pappas began by telling defendant that the police had video evidence of him from two different pawn shops, depicting him presenting his ID and pawning several items that were proceeds of a burglary. Defendant responded that he did not know anything about a burglary, but that he pawned some items for a man who knocked on his door and asked him “to pawn them for him to make extra money.” Pappas then told defendant there were cameras outside the apartment building. In response, defendant said that he knew about the burglary, but did not commit it. Rather, a man named “Quan” had knocked on defendant’s door, said he had an open “crib” downstairs and was going to “get some,” and stated he needed defendant to be a lookout for him. Pappas testified that he said to defendant, “[H]ow do you know that we don’t have cameras inside also? So I need you to tell me exactly what happened.” At this point, defendant told Pappas and Loaiza that he stood “just inside” the apartment’s door while Quan went through all of the rooms and made several trips outside. Defendant also related that on the last trip, he helped Quan carry out the television. When Pappas asked defendant to describe exactly where he was inside the apartment, defendant got up, stood right inside the lockup doors, and repeated that he had been “just inside” the apartment.

¶ 12 Pappas stated that he had left messages for Fenty’s roommate, but was never able to speak with him. He also never went into Fenty’s apartment and never reviewed any photographs of the front door. Pappas acknowledged that when he and Loaiza spoke with defendant, they did not record the conversation or reduce it to writing for defendant to sign. When asked by defense counsel whether he was aware at the time of the interview that defendant suffered from “mental health issues,” Pappas stated he was not. Defendant told the detectives that he went with Quan to

pawn the items in question, that he knew Quan through his girlfriend, and that Quan was also known as “Little Young.” Although Pappas investigated both those names, he was not able to come up with “anything.” Pappas acknowledged that although a second man was depicted with defendant in one of the pawn shop videos, he did not ask defendant who that man was, and did not try to learn that man’s identity.

¶ 13 Defendant made a motion for a directed finding, which was denied by the trial court.

¶ 14 Defendant testified that on November 19, 2015, he was living in the apartment building in question. He did not know Marshall Fenty or Sam Pastore. Defendant was not working at the time because he was collecting social security benefits for his “mental health.” He stated that he was currently taking Klonopin.

¶ 15 According to defendant, around noon on November 19, 2015, he was approaching the back of his building when he came across Quan, who was his girlfriend’s nephew. This was the first time defendant and Quan had met. Quan had some “property” in a van and asked defendant to pawn it for him, as he had no ID, in exchange for \$50. Defendant needed money to pay his rent, so he agreed and accompanied Quan to a pawn shop. There, defendant pawned a guitar and some other items. Defendant and Quan then went to a second pawn shop where they went in together and pawned a guitar, some cameras, and a television. In court, defendant identified himself and Quan in one of the pawn shop videos. Defendant denied ever entering Fenty’s apartment.

¶ 16 Defendant testified that after his arrest, he spoke with Detective Pappas at the police station. He stated that he told Pappas he pawned items for Quan. He denied telling Pappas that he

knew about a burglary in Fenty's apartment or that he helped Quan commit a burglary of Fenty's apartment.

¶ 17 On cross-examination, defendant stated that he did not expect Quan to be at his apartment building on the day of the burglary. He further stated that Quan's girlfriend was present and drove them to the pawn shops, but stayed in the van. Defendant did not know the girlfriend's name.

¶ 18 Following closing arguments, the trial court found defendant guilty of residential burglary. Defendant filed a motion for a new trial, which the trial court denied. The court subsequently sentenced defendant to 54 months in prison and denied defendant's motion to reconsider sentence.

¶ 19 On appeal, defendant challenges the sufficiency of the evidence to sustain his conviction. When reviewing the sufficiency of the evidence, the relevant inquiry 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). The credibility of the witnesses, the weight to be given their testimony, and the resolution of any conflicts in the evidence are within the province of the trier of fact, and a reviewing court will not substitute its judgment for that of the trier of fact on these matters. *People v. Brooks*, 187 Ill. 2d 91, 131 (1999). The testimony of a single witness, if positive and credible, is sufficient to convict. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). A reviewing court will not reverse a conviction simply because the defendant claims that a witness was not credible. *Id.* Rather, reversal is justified only where the evidence is "so unsatisfactory,

improbable or implausible” that it raises a reasonable doubt as to the defendant’s guilt. *People v. Slim*, 127 Ill. 2d 302, 307 (1989).

¶ 20 Defendant contends that his conviction must be reversed because, while there was credible evidence that he possessed and pawned stolen property, the only evidence tying him to the residential burglary was Detective Pappas’s incredible testimony that he admitted to participating in the crime. He asserts that Pappas’s testimony was unreliable, unbelievable, and highly suspicious, as the inculpatory statement was not recorded or memorialized and “operated to save Pappas from the failures of his inadequate investigation.” Defendant further argues that if his alleged admission actually occurred, it is unreliable because it was uncorroborated by physical evidence; he was mentally ill and on medication, which made him particularly susceptible to police deceit and badgering; and he only confessed after Pappas badgered him and lied to him by insinuating that the apartment building’s external security cameras were functional and by suggesting that security cameras existed in the apartment building’s interior hallways.

¶ 21 For the most part, defendant’s arguments involve matters of credibility that are for the trial court to resolve in its role as trier of fact. *People v. Tenney*, 205 Ill. 2d 411, 428 (2002). As noted above, it is the trier of fact who assesses the credibility of witnesses, the weight to be given their testimony, and the inferences to be drawn from the evidence, and who resolves conflicts or inconsistencies in the evidence. *Id.*; *Brooks*, 187 Ill. 2d at 131.

¶ 22 Here, the trial court heard Pappas’s testimony and was well aware of defendant’s position that the confession to which Pappas had testified was unreliable. In closing arguments, defense counsel stressed that the statement was not recorded, memorialized, or signed. Counsel also argued that defendant, whose testimony she characterized as honest and straightforward, testified

that he only told Pappas that he pawned items for Quan, not that he participated in the burglary. Later, when arguing the motion for a new trial, counsel again stressed that her client's alleged confession was not on video, written, or signed.

¶ 23 Despite these arguments, the trial court found defendant guilty, noting that defendant told the police "when they confronted him with more and more information that he actually was there and complicit in it." Then, at the hearing on the posttrial motion, the trial court specifically addressed Pappas's credibility, stating that it found him credible and compelling despite the concerns defendant is now raising on appeal. We will not substitute our judgment for that of the trial court on this question of credibility. *Brooks*, 187 Ill. 2d at 131.

¶ 24 With regard to defendant's arguments concerning corroboration, we note that all the law requires to corroborate a defendant's confession is extrinsic corroborating evidence which, taken together with the admission, is sufficient to support a finding of guilt beyond a reasonable doubt. *People v. Gill*, 264 Ill. App. 3d 451, 458-59 (1992). Here, defendant's confession was corroborated by his pawning of Fenty's belongings on the same day they were stolen from Fenty's apartment. We are mindful that the State presented no corroborating evidence for the specific portions of defendant's confession where he admitted to entering Fenty's apartment and helping Quan carry the television outside. However, there is no requirement that evidence corroborating a confession establish the charged crime beyond a reasonable doubt or that the corroborating evidence and the defendant's confession correspond in every detail. *People v. Murray*, 254 Ill. App. 3d 538, 548 (1993) (citing *People v. Furby*, 138 Ill. 2d 434, 450-51 (1990)).

¶ 25 As for defendant's arguments that his confession was unreliable because his mental illness made him susceptible to Pappas's "deceit and badgering," we cannot agree. A defendant's mental state at the time of a confession, as well as its effect on the reliability of that confession, is a factual issue to be resolved by the fact finder. See *People v. Lara*, 2012 IL 112370, ¶ 63. Similarly, whether a defendant's confession is coerced is a matter for the trial court to resolve in its role as the finder of fact. See *People v. Kashney*, 129 Ill. App. 3d 218, 222-23 (1986). Here, the trial court was aware that defendant was taking Klonopin for schizophrenia, and heard Pappas's testimony regarding the questions he asked defendant during the custodial interview, including Pappas's statements to defendant regarding security cameras outside and inside the apartment building, and nevertheless found defendant guilty based, in part, on his confession. We decline to disturb the court's findings.

¶ 26 We find that the evidence supporting defendant's conviction could reasonably be accepted by the trial court, who saw and heard Pappas, defendant, and the other witnesses testify. Having heard the evidence, the trial court was convinced of defendant's guilt beyond a reasonable doubt. After reviewing the evidence in the light most favorable to the prosecution, which we must, we conclude that the evidence was not "so unsatisfactory, improbable or implausible" to raise a reasonable doubt as to defendant's guilt. *Slim*, 127 Ill. 2d at 307. Accordingly, defendant's challenge to the sufficiency of the evidence fails.

¶ 27 For the reasons explained above, we affirm the judgment of the circuit court.

¶ 28 Affirmed.