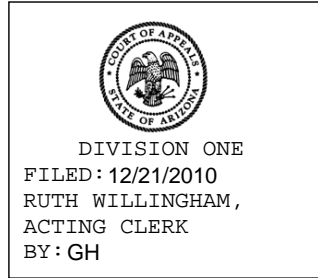


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS
AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



STATE OF ARIZONA,) 1 CA-CR 10-0115
)
Appellee,) DEPARTMENT E
)
v.) **MEMORANDUM DECISION**
)
) (Not for Publication -
DOROTHY MARIE HAINES,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2008-138727-001 SE

The Honorable Barbara L. Spencer, Judge *Pro Tempore*

AFFIRMED

Terry Goddard, Attorney General Phoenix
by Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
and Jeffrey L. Sparks, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
by Christopher V. Johns, Deputy Public Defender
Attorneys for Appellant

W E I S B E R G, Judge

¶1 Dorothy Marie Haines ("Defendant") appeals from her conviction for theft of means of transportation following a jury

trial and from the sentence imposed. For reasons that follow, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Defendant was charged with theft of means of transportation, a class 3 felony. Viewing the facts in the light most favorable to upholding the verdict, the following evidence was presented at trial. In August 2007, the owner of a 1999 four-door Dodge Neon reported to Apache Junction police that his vehicle had been stolen.¹

¶3 On the night of June 19, 2008, Detective Doane of the Mesa Police Department was on duty and noticed a Dodge Neon with a cracked windshield and some writing on the window that appeared to block the driver's view. The driver, Defendant, turned into a gated retirement community and stopped. The detective was suspicious because he was in a high-crime area, the car stopped "for no reason" and the gate would not open. He wanted to find out "what was going on."

¶4 Detective Doane stopped behind the Neon and made contact with Defendant. At the detective's request, Defendant provided her driver's license, registration and proof of insurance. The vehicle identification number ("VIN") and

¹Defendant states that the owner did not report the Neon as stolen for ten months. The record shows the owner reported it stolen two months after he gave it to a friend to be serviced, and that it was recovered ten months later.

license plate number on the registration and insurance card was for a 1997 Dodge Neon and did not match the VIN on the vehicle. A records check of the VIN showed it was the 1999 stolen Dodge Neon.

¶15 Detective Doane asked Defendant to explain how she got the Neon. She told him she had purchased it three or four days before on the side of the road in the area of Power and Southern in Mesa. She said she paid \$150 for it, but that she did not know who sold it to her and did not have the title or other documents for the vehicle. When the detective questioned her about the low purchase price, Defendant changed her story and said she had paid \$600, but had told the Motor Vehicle Division ("MVD") that she only paid \$150 to avoid paying taxes.

¶16 Later, the detective ran a vehicle records check on Defendant and found that she owned a 1997 Dodge Neon that had been impounded in Bullhead City. This matched the information on the documents Defendant had provided. Defendant told the detective that she had sold the 1997 Neon to a friend in Bullhead City. She said she had taken the title of that vehicle to MVD, falsely reported that she had lost the license plate, and obtained a duplicate plate. She explained that she had placed the license plate for the 1997 Neon on the newly-purchased Neon because she could not register that vehicle and did not want to be stopped by the police. The 1999 Dodge Neon

was returned to the owner who testified that Defendant did not have permission to use it.

¶7 At trial, Defendant testified that on June 17, 2008, she saw a Dodge Neon in a restaurant parking lot near Southern and Power in Mesa. It had "For Sale" and a telephone number written in white on the windshield. Defendant went to a friend's house, called the phone number and arranged to meet the seller there. Soon thereafter, a woman arrived in the Neon. Defendant testified the vehicle was "kind of trashed," but the engine ran. She said that after she paid \$600 in cash, the seller gave her a signed and notarized title. The title reflected that the vehicle was a 1996 two-door Dodge Neon. Defendant prepared an invoice showing payment of \$600 and Defendant's friend signed the invoice as a witness.²

¶8 Defendant also testified that she owned a 1997 Dodge Neon and had sold it in May 2008 to someone in Bullhead City and that the buyer was still making payments on the vehicle. She took the license plate off the 1997 Neon and believed she could put it on the next vehicle she purchased. She said that the license plate was either lost or stolen and that she went to MVD and obtained a replacement plate.

²Defendant's friend testified that she signed the invoice because Defendant said, "Would you sign this that I gave money." She did not know anything about the transaction and did not remember if Defendant showed her a title.

¶9 Defendant further testified that on June 19, she went to MVD to register the newly-purchased Neon. An employee told her she could not register the vehicle until she paid an outstanding parking ticket from the City of Phoenix for \$150 and that she did not have the money then.³ She stated that while she was driving on the night of June 19, she thought she had lost her cell phone and pulled into the gated community to find it. She claimed she had told Detective Doane she had the title to the Neon at her friend's house, asked him if he would drive her there to show him, but that he refused.

¶10 Defendant denied knowing the car was stolen. She denied changing her story about the purchase price and claimed that the detective misunderstood her statement about the \$150. She denied telling the detective that she not have the title. She claimed she did not notice that the title she received from the seller was for a two-door sedan, but the Neon she purchased was a four-door sedan. Defendant admitted that after she was arrested, she could not remember the seller's name, did not give the seller's telephone number to Detective Doane, and did not

³On cross-examination, the prosecutor produced a parking ticket issued to Defendant from the City of Phoenix on April 3, 2008 showing a \$150 fine. The ticket had a court date of June 24, 2008, suggesting that Defendant was not yet responsible for payment of the fine when she allegedly tried to register the Neon. Defendant said she had never before seen the ticket and first learned about it at MVD.

try to contact the seller herself. She also admitted she did not provide the title to the detective and said she gave it to her lawyer at her first court appearance.

¶11 On rebuttal, Detective Doane testified that he had never before seen the title and reiterated that Defendant told him she did not have one. An investigator from MVD testified that parking tickets are not part of the MDV records and that an outstanding ticket would not prevent a person from registering a vehicle.⁴

¶12 The jury found Defendant guilty. The court suspended Defendant's sentence and placed her on probation for two years. Defendant timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031, -4033(A) (2010).

DISCUSSION

¶13 On appeal, Defendant claims the trial court abused its discretion in denying her motion for judgment of acquittal under Rule 20, Arizona Rules of Criminal Procedure after the State rested. Defendant alleges there was insufficient evidence to show that she committed the offense of theft of means of transportation. In particular, she claims the evidence was not

⁴The investigator testified MVD records showed there were two titles to the 1996 Neon bearing the same owner's name, one generated on April 9, 2008, which was allegedly given to Defendant, and one generated on April 17, 2008.

sufficient to prove she knew or had reason to know the 1999 Neon was stolen.

¶14 We review a trial court's denial of a motion for judgment of acquittal for an abuse of discretion. *State v. McCurdy*, 216 Ariz. 567, 573, ¶ 14, 169 P.3d 931, 937 (App. 2007). A judgment of acquittal is only appropriate "if there is no substantial evidence to warrant a conviction." Ariz. R. Crim. P. 20(a). Substantial evidence is such proof that a reasonable person could find beyond a reasonable doubt that the defendant is guilty of the charged offense. *State v. Landrigan*, 176 Ariz. 1, 4, 859 P.2d 111, 114 (1993). Substantial evidence may be either direct or circumstantial. *State v. Pena*, 209 Ariz. 503, 505, ¶ 7, 104 P.3d 873, 875 (App. 2005).

¶15 In determining whether there is substantial evidence, we view the facts in the light most favorable to upholding the conviction. *State v. McGill*, 213 Ariz. 147, 152, ¶ 17, 140 P.3d 930, 935 (2006). We resolve all reasonable inferences and conflicts in the evidence against the defendant. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). And because the credibility of witnesses is an issue for the jury, we will not disturb its determination if there is substantial evidence supporting the verdict. *State v. Soto-Fong*, 187 Ariz. 186, 200, 928 P.2d 610, 624 (1996).

¶16 The crime of theft of means of transportation for which Defendant was charged requires proof that a person "without lawful authority . . . knowingly . . . [c]ontrols another person's means of transportation knowing or having reason to know that the property is stolen." A.R.S. § 13-1814(A)(5)(2010). There is no dispute that Defendant controlled the stolen vehicle, and Defendant agreed she did not have the owner's permission to use or possess it. She argues, however, that she made a "lawful purchase of what she believed to be a legitimately titled car [and] there was nothing about the purchase that would give an ordinary buyer reason to know that the property was stolen." We disagree.

¶17 Here, when Detective Doane stopped Defendant, he found that the registration, proof of insurance and license plate did not match the VIN of the 1999 Neon; rather it matched a 1997 Neon that Defendant said she sold to someone in Bullhead City. She told the detective that she removed the license plate from that Neon, obtained a duplicate plate from MVD under false pretenses and put it on the 1999 Neon. She also said that the reason she put her old license plate on the 1999 Neon was because she was unable to register it and did not want to be stopped by the police without plates.

¶18 Further, Defendant told Detective Doane that she bought the 1999 Neon three or four days earlier at an

intersection in Mesa. She did not provide any specifics about the purchase that she presented at trial. She first told the detective that she paid \$150 for the vehicle and then changed her story and said she paid \$600 for it. Defendant did not know the name of the seller, or the seller's telephone number, although she purchased the vehicle only days before. She did not have a title or other documentation for it, and although Defendant claimed at trial that she offered to show the title to the detective, Defendant never provided it to him. Instead, she only first produced it and gave it to her lawyer at her first court appearance. This title, however, was for a two-door sedan and the 1999 Neon was a four-door sedan. Further, Defendant claimed she attempted to register the Neon at MVD, but was told that she had to pay a \$150 parking ticket before she could do so. An MVD investigator, however, testified that MVD did not maintain parking ticket records and that having a ticket would not prevent a person from registering a vehicle.

¶19 The jury was free to disbelieve Defendant's version of events presented at trial. The evidence and all reasonable inferences from it are sufficient to convince a reasonable juror beyond a reasonable doubt that Defendant either knew or had reason to know that the 1999 Neon was stolen. See *State v. Dixon*, 216 Ariz. 18, 21, ¶ 10, 162 P.3d 657, 660 (App. 2007)(sufficient circumstantial evidence existed that defendant

had reason to know truck stolen to support conviction under A.R.S. § 13-1814(A)(5), and jury could reject defendant's testimony about how he came to possess truck). The trial court did not abuse its discretion in denying the Rule 20 motion.

CONCLUSION

¶20 For the foregoing reasons, we affirm Defendant's conviction and sentence.

SHELDON H. WEISBERG, Judge

CONCURRING:

PHILIP HALL, Presiding Judge

PETER B. SWANN, Judge