

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA** \* **NO. 2002-KA-1100**  
**VERSUS** \* **COURT OF APPEAL**  
**LARRY W. WILLIAMS** \* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**  
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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 426-748, SECTION "J"  
Honorable Leon Cannizzaro, Judge  
\* \* \* \* \*  
**Judge Terri F. Love**  
\* \* \* \* \*

(Court composed of Judge Michael E. Kirby, Judge Terri F. Love, Judge David S. Gorbaty)

**Harry F. Connick, District Attorney**  
**Juliet Clark, Assistant District Attorney**  
619 South White Street  
New Orleans, LA 70119

**COUNSEL FOR PLAINTIFF/APPELLEE**

**Sherry Watters**  
**LOUISIANA APPELLATE PROJECT**  
P. O. BOX 58769  
New Orleans, LA 701588769

## **COUNSEL FOR DEFENDANT/APPELLANT**

### **AFFIRMED**

Larry Williams was charged by bill of information on December 11, 2001, with illegal possession of stolen goods worth more than \$500 in violation of La. R.S. 14:69. He entered a plea of not guilty at his arraignment. A six-member jury found him guilty as charged after trial on January 10, 2002. The state filed a multiple bill charging the defendant as a second felony offender. On March 11, 2002 after being advised of his rights, he pleaded guilty as charged, and he was then sentenced to serve seven years at hard labor under La. R.S. 15:574.4, the About Face Program. His sentence was imposed with two special conditions: that he obtain his G.E.D. and that he take part in substance abuse counseling. Williams' filed a motion for an appeal which was granted by the trial court.

At trial, Officer Michael Glasser testified that he and his partner, Officer William McDade, were patrolling in an unmarked police car at the corner of Conti Street and Claiborne Avenue on November 24, 2001, when they noticed a Chrysler Cirrus cut in front of traffic to cross Claiborne Avenue. The officers followed the car and ran the auto license plate number through the National Crime Intelligence Computer. They learned that the plate was assigned to a Dodge Neon not a Chrysler Cirrus. Officer Glasser

suspected that the car was stolen and pulled it over. Once the car was stopped, the officer noticed that the steering column had been damaged and there was a screwdriver in the back seat. Larry Williams was the front seat passenger.

Ms. Antoniece Davis testified that she owned a Chrysler Cirrus 2000 which she had purchased in October of 2001 for \$10,500. On that evening, Ms. Davis parked her car in front of her apartment complex at 5174 St. Anthony Avenue. She did not give the defendant permission to use her car.

Detective Patrick Evans testified that he answered Officer Glasser's call for help concerning the erratically driven car. The detective saw the defendant in the front passenger seat with an unobstructed view of the broken steering column. There were no keys in the ignition. Detective Evans also retrieved a screwdriver from the back seat of the car.

In a single assignment of error, the defendant argues that the state failed to produce sufficient evidence to sustain his conviction. Specifically, he maintains that the state did not prove he had possession or control over a vehicle in which he was a passenger.

When assessing the sufficiency of evidence to support a conviction, the appellate court must determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found

proof beyond a reasonable doubt of each of the essential elements of the crime charged. Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781 (1979); State v. Jacobs, 504 So.2d 817 (La. 1987).

In addition, when circumstantial evidence forms the basis of the conviction, such evidence must consist of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. State v. Shapiro, 431 So.2d 372 (La. 1982). The elements must be proven such that every reasonable hypothesis of innocence is excluded. La. R. S. 15:438. La. R. S. 15:438 is not a separate test from Jackson v. Virginia, but rather is an evidentiary guideline to facilitate appellate review of whether a rational juror could have found a defendant guilty beyond a reasonable doubt. State v. Wright, 445 So.2d 1198 (La. 1984). All evidence, direct and circumstantial, must meet the Jackson reasonable doubt standard. State v. Jacobs, 504 So.2d 817 (La. 1987).

Williams was charged with and convicted of the illegal possession of stolen things, which is defined in La. R. S. 14:69(A) in pertinent part as the "intentional possessing, procuring, receiving, or concealing of anything of value which has been the subject of any robbery or theft, under circumstances which indicate that the offender knew or had good reason to

believe that the thing was the subject of one of these offenses." In order to sustain a conviction under La. R. S. 14:69, the state must prove that (1) the vehicle was stolen; (2) the vehicle was worth more than five hundred dollars; (3) the defendant knew or should have known that the vehicle was stolen; and, (4) the defendant intentionally possessed, received, procured or concealed the vehicle. See State v. Riley, 98-1323 (La. App. 4 Cir. 8/4/99), 744 So. 2d 664, 666, writ denied, 2001- 2441 (La. 6/1/01), 793 So. 2d 182.

The defendant argues that not only did the state not produce sufficient evidence to prove that he possessed or controlled the vehicle in which he was a passenger, but also he claims that no case law supports the concept that a passenger controls or possesses the vehicle in which he is riding. The defendant is mistaken. In State v. Wilson, 544 So. 2d 1300 (La. App. 4 Cir. 1989), the defendant, a passenger in a vehicle with a broken steering column, was convicted of illegal possession of a stolen vehicle. In proving the elements of the offense, this court stated:

The State clearly proved the vehicle was stolen and was valued in excess of \$500.00. Further the evidence is clear that the door lock on the passenger side was "popped out" and that the steering column was broken. There was broken plastic from the steering column on the floor as well as a screwdriver. *The defendant was a willing passenger in the vehicle.* [Emphasis added].

Wilson, 544 So. 2d at 1302.

Additionally this court in Wilson concluded that the defendant “as a willing passenger did perform a sufficient overt act to justify an attempt at possession.” Id.

In the case at bar, all the elements of La. R.S. 14:69 are satisfied. Ms. Antoniece testified that her car was stolen and that it was worth more than \$500. The defendant was sitting in the front seat where he could see that the steering column was defeated and no key was in the ignition. In State v. Wilson, the driver testified that the defendant did not know the car was stolen; however, this court found that because the steering column was broken, there was no key in the ignition, and there was a screwdriver on the floor, the passenger/defendant knew or should have known that the car was stolen. Similarly in this case, the defendant should have known the vehicle was stolen. Finally, by his status as a willing passenger the defendant performed a sufficiently overt act to indicate his intention to possess the car.

Accordingly, we find the evidence sufficient to support the conviction of possession of stolen property. His conviction and sentence are affirmed.

**AFFIR**

**MED.**