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NO. COA11-173
NORTH CAROLINA COURT OF APPEALS

Filed: 20 September 2011

IN THE MATTER OF:
C.C.

Wayne County
No. 10 JB 61

Appeal by Juvenile from order entered 2 September 2010 by Judge Les Turner in District Court, Wayne County. Heard in the Court of Appeals 30 August 2011.

Attorney General Roy Cooper, by Assistant Attorney General Jonathan D. Shaw, for the State.

Lisa Skinner Lefler for Juvenile-Appellant.

McGEE, Judge.

The State's evidence tended to show that C.C., a juvenile, was a passenger in a vehicle with three other juveniles on 13 April 2010. We will refer to the three other juveniles as "Lynn," "John," and "Brian," (together with C.C., the juveniles), as these are the pseudonyms used for these juveniles in the appellate briefs. The juveniles drove to the house of a woman (the victim) who was known to Lynn because Lynn had gone

to school with the victim's daughter. Lynn had texted the victim's daughter to make certain the daughter would not be at the house. John went to the back door of the house while the other juveniles remained in the vehicle. John pried open the back door with a crowbar, and entered the house. The other juveniles, including C.C., then exited the vehicle and also entered the house. Once inside, the juveniles split up and searched the house for valuables. They then carried the items they had removed from the house to the vehicle, and left the house.

A neighbor noticed the house had been broken into and called the victim. The police were called and met the victim at her house. The victim reported that two laptops, medication, a cell phone, a camera, portable gaming devices, an Ipod system, black lights, shoes and clothes were missing from her house. Detective Shawn Harris (Detective Harris) with the Wayne County Sheriff's Office was assigned to investigate the breaking. Detective Harris's investigation led him to question Lynn. Lynn admitted to Detective Harris that she had participated in the breaking, and she then returned one laptop, black lights, and medication that she had taken from the house. Lynn also told Detective Harris of John's, Brian's, and C.C.'s involvement in the crime. Detective Harris went to Brian's residence to

investigate, and found both Brian and C.C. at that residence. After Detective Harris questioned Brian, Brian turned over to Detective Harris the victim's laptop and clothes.

A juvenile petition was filed on 5 May 2010 alleging that C.C. was delinquent for felonious breaking or entering, felonious larceny pursuant to felonious breaking or entering, and felonious possession of stolen goods. The charges were heard on 5 August 2010. C.C. was adjudicated delinquent for felonious breaking or entering, felonious larceny, and felonious possession of stolen goods on 5 August 2010. The disposition order was entered on 2 September 2010, and C.C. was placed on probation and ordered to comply with other conditions. C.C. appeals.

In her only argument, C.C. contends that the trial court erred by denying her motion to dismiss the charges of felonious breaking or entering and felonious larceny. We disagree.

C.C. moved to dismiss at the close of the State's evidence and at the close of all the evidence. The trial court denied her motions.

When ruling on a motion to dismiss, the trial court must consider the evidence in the light most favorable to the State; and the State is entitled to every reasonable inference to be drawn therefrom. The State must present substantial evidence of each element of the offense charged. "[T]he trial court should consider all evidence

actually admitted, whether competent or not, that is favorable to the State." If the evidence "is sufficient only to raise a suspicion or conjecture as to either the commission of the offense or the identity of the defendant as the perpetrator, the motion to dismiss must be allowed[;]" however, "[i]f there is substantial evidence-whether direct, circumstantial, or both-to support a finding that the offense charged has been committed and that the defendant committed it, the case is for the jury and the motion to dismiss should be denied[.]"

State v. Fleming, 350 N.C. 109, 142, 512 S.E.2d 720, 742 (1999) (citations omitted).

We first note that C.C. does not contest her adjudication of delinquency for the charge of felonious possession of stolen goods. Because that adjudication is not before us on this appeal, we do not address it, and any challenge to it is deemed abandoned. *State v. Inman*, __ N.C. App. __, __, 696 S.E.2d 567, 569 (2010).

The State presented testimony from Lynn that she, C.C., John, and Brian drove to the victim's house. John used a crowbar to pry open a door to the house, and all four juveniles entered. They searched the house individually, and then returned to the vehicle. The following colloquy occurred between the prosecutor and Lynn:

Q. Where were you all when you all split up the items?

A. In the car.

Q. In the car? And out of the four of you all, how many of you participated in splitting up the items?

A. We all four just took what we grabbed pretty much.

Q. And did that include [C.C.]?

A. Yes, I mean, if she grabbed stuff.

Q. Do you recall exactly what it was that she took?

A. Maybe clothes.

Based on information he received from questioning Lynn, Detective Harris went to Brian's residence. C.C. was at Brian's residence when Detective Harris arrived. Detective Harris testified that, after questioning Brian, a laptop and "ladies clothing, bathing suit, top, bottoms and a pair of shorts . . . were returned to us." The victim identified these clothes as belonging to her. Taken in the light most favorable to the State, we hold there was sufficient evidence to survive C.C.'s motions to dismiss.

"Any person who breaks or enters any building with intent to commit any felony or larceny therein shall be punished as a Class H felon." N.C. Gen. Stat. § 14-54(a) (2009).

"The essential elements of larceny are that [the juvenile] (1) took the property of another and (2) carried it away (3) without the owner's consent (4) with the intent to

deprive the owner of the property permanently." "[T]he essential facts can be proved by circumstantial evidence where the circumstance raises a logical inference of the fact to be proved and not just a mere suspicion or conjecture."

In re Phillips, 128 N.C. App. 732, 736, 497 S.E.2d 292, 294 (1998) (citations omitted). "The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is . . . : . . . Committed pursuant to a violation of . . . 14-54[.]" N.C. Gen. Stat. § 14-72(b)(2) (2009).

Evidence at trial tended to show that C.C. entered the victim's house after John pried open the back door. Lynn testified that she believed C.C. took "[m]aybe clothes" from the victim's house. While C.C. was at Brian's residence, Detective Harris recovered women's clothing from that residence that belonged to the victim. It was the province of the trier of fact to weigh the evidence and make credibility determinations. Taken in the light most favorable to the State, this evidence tends to show that C.C. entered the victim's house without permission and with the intent to take the victim's possessions from the victim's house; that C.C. did, in fact, take clothes from the victim's house; and that C.C. took those clothes to Brian's residence with the intent to permanently deprive the victim of them. Further, C.C. does not contest the adjudication finding her delinquent for the possession of the

victim's stolen items. This evidence satisfied all the necessary elements of felony breaking or entering and felony larceny.

Affirmed.

Judges ELMORE and HUNTER, JR. concur.

Report per Rule 30(e).