IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. K.R.B.,[†] Appellant.	No. 42277-8-II UNPUBLISHED OPINION

Quinn-Brintnall, J. — K.R.B. appeals his adjudication for second degree possession of stolen property, arguing that the State failed to present sufficient evidence that he knowingly possessed stolen property. We affirm.[1]

On October 17, 2010, K.R.B., his girlfriend, M.G., her two-year-old brother, her friend, T.E., and T.E.'s younger brother, entered the Macy's in the Vancouver Mall. They went to the young men's department, where M.G. picked out clothing for K.R.B. and T.E. picked out clothing for her boyfriend. They draped the clothes over a baby stroller that they had brought.

[†] Under RAP 3.4, this court changes the title of the case to the juvenile's initials. The opinion also uses initials for the additional juvenile parties to protect their confidentiality.

[1] A commissioner of this court initially considered K.R.B.'s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

K.R.B. told M.E. which clothes he did not like and pointed out clothes that he preferred. The younger boys were getting rambunctious so K.R.B. took them to another area of the store. They returned briefly and then M.G. and T.E. took the clothing and stroller into a fitting room, where they concealed some of the clothing and other items in bags on the stroller. They left the fitting room, returned some items, and left the store without paying for any of the items they concealed on the stroller. M.G. called K.R.B., who met them in the parking lot.

While the group was in the young men's department, they had been under surveillance by David Logan, an undercover security detective, and his partner. He saw M.G. and T.E. enter and leave the fitting room. After they left the fitting room, Logan's partner entered it and saw that some of the items that they saw M.G. and T.E. take into the fitting room were not there. They concluded that M.G. and T.E. had taken the items and they went to stop them. However, by the time they located M.G. and T.E., they were in the parking lot. Store policy prevented them from detaining M.G. and T.E. once they were in the parking lot, so they called the Vancouver Police and kept watching M.G. and T.E. They saw K.R.B. and the younger boys meet up with M.G. and T.E. and then saw the group walk toward a Red Robin. At times, K.R.B. pushed the stroller.

Vancouver Police Officer Brett Donaldson responded to the call of a shoplifting from the Macy's. He activated his emergency lights and pulled up to where K.R.B., M.G., and T.E. were walking. As Donaldson got out of his patrol car, he saw clothing draped over the stroller. When Donaldson contacted K.R.B., K.R.B. was "very rude, swearing, didn't want to cooperate." Report of Proceedings (May 25, 2011) at 59. Logan and his partner arrived, took the items from the stroller, and determined that they had been stolen and that their aggregate value was over $800. About half of the clothing recovered was men's clothing. On cross-examination, Logan

testified that the stolen items were still in bags on the stroller when he and his partner arrived.

The State charged K.R.B. with second degree theft and second degree possession of stolen property. Logan and Officer Donaldson testified as described above. M.G. testified that she and T.E. had stolen the clothing and that she had not discussed stealing the items with K.R.B. before she and T.E. concealed them on the stroller and that she did not tell K.R.B. that they had done so. She testified that the stolen items were still concealed when Donaldson contacted them. She said some of the stolen clothing was intended for K.R.B. and some for T.E.'s boyfriend. K.R.B. testified that he did not know that M.G. and T.E. had gone into the fitting room and did not know that they had concealed the items in bags on the stroller until Donaldson contacted them.

The juvenile court found K.R.B. not guilty of second degree theft but found him guilty of second degree possession of stolen property. In so doing, it concluded that K.R.B. "acted with knowledge that the property had been stolen." Clerk's Papers (CP) at 17.

K.R.B. appeals, arguing that the State failed to present sufficient evidence that he knew he was in possession of stolen property. Evidence is sufficient to support a conviction if, when viewed in the light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *Salinas*, 119 Wn.2d at 201. Circumstantial evidence and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). We defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. *State v. Walton*, 64 Wn. App. 410, 415-16,

824 P.2d 533, *review denied*, 119 Wn.2d 1011 (1992).

Before the juvenile court could find K.R.B. guilty of second degree possession of stolen property, the State had to prove beyond a reasonable doubt that he possessed stolen property "knowing that it has been stolen" and that the value of the stolen property exceeded $750. RCW 9A.56.140(1), .160(1)(a). K.R.B. concedes that the State presented sufficient evidence that the value of the items stolen from Macy's exceeded $750. And he concedes that the State presented sufficient evidence that he was in possession of those items when he pushed the stroller towards the Red Robin. But he denies that the State presented sufficient evidence that he knew he was in possession of stolen property. He points to his denial of knowledge of M.G. and T.E.'s actions, either before or after they took the clothes. He points to M.G.'s testimony that she had not told him that she and T.E. were going to steal the items or that they had done so when they met in the parking lot. And he points to Logan's testimony that the stolen items were still concealed on the stroller when Officer Donaldson stopped the group. Thus, he contends that the State did not present sufficient evidence that he knew there was stolen property on the stroller when he was pushing it.[2]

However, while Logan testified that the stolen items were still concealed when Officer Donaldson stopped the group, Donaldson said that some of the stolen items were visible on top of the stroller when he arrived in front of the stroller. The juvenile court found that "the merchandise was strewn about the stroller and clearly visible (including items of clothing over the top of the stroller and the handle bar)." CP at 16. In light of the conflicting evidence, we defer to

[2] He also contends that sufficient evidence does not support the juvenile court's finding that Logan and his partner "arrived a short time after law enforcement contacted" the group. CP at 16. However, Logan testified that he and his partner arrived at the scene after Officer Donaldson had contacted the group.

the trier of fact, here the juvenile court.

K.R.B. was present with the stroller when Officer Donaldson arrived. The clearly visible items of clothing, combined with K.R.B.'s knowledge that M.G. and T.E. had been picking out such items of clothing, some at his direction, and his belligerence with Donaldson provided the "slight corroborative evidence of other inculpatory circumstances" sufficient for the juvenile court to infer that K.R.B. was pushing a stroller knowing that it contained property stolen from Macy's. *State v. Withers*, 8 Wn. App. 123, 128, 504 P.2d 1151 (1972). When viewed in the light most favorable to the State, sufficient evidence supports the court's finding that K.R.B. is guilty of second degree possession of stolen property.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

HUNT, J.

PENOYAR, C.J.