

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

ANDRE DANIEL MORALES,  
*Appellant.*

No. 2 CA-CR 2020-0070  
Filed \_\_\_\_\_

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).*

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Appeal from the Superior Court in Pinal County  
No. S1100CR202100338  
The Honorable Jason R. Holmberg, Judge

**AFFIRMED**

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COUNSEL

Kris Mayes, Arizona Attorney General  
Alice Jones, Acting Deputy Solicitor General/Chief of Criminal Appeals  
By Diane Leigh Hunt, Assistant Attorney General, Tucson  
*Counsel for Appellee*

Rosemary Gordon Pánuco, Tucson  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Presiding Judge Eckerstrom authored the decision of the Court, in which Chief Judge Vásquez and Judge Cattani concurred.

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ECKERSTROM, Presiding Judge:

¶1 After a jury trial, Andre Morales was convicted of theft of a means of transportation. The trial court sentenced him to an enhanced, aggravated prison term of fourteen years. On appeal, Morales challenges the sufficiency of the evidence to support his conviction. We affirm.

**Factual and Procedural Background**

¶2 We view the facts in the light most favorable to affirming Morales's conviction. *See State v. Allen*, 235 Ariz. 72, ¶ 2 (App. 2014). One evening in February 2021, a Black male forced his way in the back door of R.D.'s Phoenix home while no one was there. R.D.'s key fob, along with several other personal items, and R.D.'s car were taken.

¶3 Using the car's global positioning system, R.D. was able to track her car to a specific location in Maricopa, where officers found it early the next morning. Morales was in the driver's seat, and S.S. was in the passenger's seat.

¶4 Morales was indicted for theft of a means of transportation, convicted as charged, and sentenced as described above. This appeal followed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A)(1).

**Discussion**

¶5 Morales contends the state presented insufficient evidence to support his conviction for theft of a means of transportation. We review de novo the sufficiency of the evidence. *State v. Snider*, 233 Ariz. 243, ¶ 4 (App. 2013). In doing so, we view the evidence in the light most favorable to sustaining the jury's verdict and resolve all inferences against the defendant. *State v. Felix*, 237 Ariz. 280, ¶ 30 (App. 2015).

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¶6 A trial court “must enter a judgment of acquittal . . . if there is no substantial evidence to support a conviction.” Ariz. R. Crim. P. 20(a). “Substantial evidence is such proof that ‘reasonable persons could accept as adequate and sufficient to support a conclusion of defendant’s guilt beyond a reasonable doubt.’” *State v. Sharma*, 216 Ariz. 292, ¶ 7 (App. 2007) (quoting *State v. Mathers*, 165 Ariz. 64, 67 (1990)). “If reasonable [persons] may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.” *State v. Davolt*, 207 Ariz. 191, ¶ 87 (2004) (alteration in *Rodriguez*) (quoting *State v. Rodriguez*, 186 Ariz. 240, 245 (1996)). Substantial evidence may be either direct or circumstantial. *State v. Pena*, 209 Ariz. 503, ¶ 7 (App. 2005).

¶7 Pursuant to A.R.S. § 13-1814(A)(5), “[a] person commits theft of means of transportation if, without lawful authority, the person knowingly . . . [c]ontrols another person’s means of transportation knowing or having reason to know that the property is stolen.” Knowingly means “a person is aware or believes that the person’s conduct is of that nature or that the circumstance exists.” A.R.S. § 13-105(10)(b). Control means “to act so as to exclude others from using their property except on the defendant’s own terms.” A.R.S. § 13-1801(A)(2). “Proof of possession of property recently stolen, unless satisfactorily explained, may give rise to an inference that the person in possession of the property was aware of the risk that it had been stolen or in some way participated in its theft.” A.R.S. § 13-2305(1); see A.R.S. § 13-1814(B).

¶8 R.D.’s car was stolen from her garage in Phoenix, and, several hours later, officers found Morales sitting in the driver’s seat of the car in a parking lot in Maricopa. Morales did not have permission to be in the car.

¶9 Morales nevertheless contends there was no evidence that he “knew the vehicle was stolen” or that he “controlled it knowing it was stolen.” We disagree. The state presented evidence from which a reasonable jury could infer that Morales participated in the theft of the car. See §§ 13-1814(B), 13-2305(1). Security footage at R.D.’s home showed a Black man breaking in through the back door. The man was wearing black pants, a white shirt, and a chain necklace with a cross. At the time of his arrest, Morales, a Black man, was also wearing black pants, a white shirt, and a gold chain with a cross. One of R.D.’s neighbors identified Morales and a “shorter” Caucasian woman—matching a description of S.S.—as being in the neighborhood around the time R.D.’s car was stolen. Another neighbor also saw a Black man and a “shorter” Caucasian woman standing in R.D.’s driveway that evening. Several personal items that were stolen from R.D.’s home were found in R.D.’s car and in S.S.’s purse.

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¶10 Although Morales testified that, on the day in question, S.S. had picked him up in R.D.'s car and that he did not know it was stolen, it was for the jury to weigh the evidence and determine witness credibility. See *State v. Buccheri-Bianca*, 233 Ariz. 324, ¶ 38 (App. 2013). "It is not the province of an appellate court to reweigh evidence or reassess the witnesses' credibility." *Id.* The state presented sufficient evidence from which reasonable persons could find Morales guilty of theft of a means of transportation. See *Snider*, 233 Ariz. 243, ¶ 4.

**Disposition**

¶11 For the foregoing reasons, we affirm Morales's conviction and sentence.