

Cite as 2010 Ark. App. 376

ARKANSAS COURT OF APPEALSDIVISION III
No. CACR09-1058

JOHN C. RAMBEAU

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 5, 2010APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT,
[NO. CR-08-525-1]HONORABLE JOHN HOMER
WRIGHT, JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

John C. Rambeau was found guilty in a Garland County jury trial of theft of property valued at more than \$500 and breaking or entering. He received concurrent sentences of twenty-five and ten years respectively in the Arkansas Department of Correction. On appeal, he challenges the sufficiency of the evidence regarding his identity as the perpetrator of these crimes. We affirm.

Rambeau was charged by information with stealing a four-wheeler from Lance Vernor, valued in excess of \$500, and with breaking or entering a vehicle, also owned by Lance Vernor. At trial, Vernor's fiancée, Melissa Atkinson, testified that on the evening of August 16, 2008, she drove Vernor's truck to a convenience store where she purchased certain items with a twenty-dollar bill. When she returned home, she left the change—a ten-dollar bill, a one-dollar bill, and some coins—in the truck. Also in the truck that night were

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a radar detector and a “green sucker” from Regions Bank that had been given to one of her children. She also noted that her fiancé’s four-wheeler was parked in the yard when she went to sleep that evening. According to Atkinson, Vernor rose early that morning and discovered that the four-wheeler was missing.

Atkinson accompanied Vernor in his truck, searching for the four-wheeler. Approximately two hundred yards from their residence, they encountered an individual lying in the middle of Geronimo Street. He was wearing blue-jean shorts, a red bandana, and tennis shoes. Approximately 100 to 150 yards farther down the street from the man, they discovered the four-wheeler on the right side of the road, pushed up under a night-light. Atkinson called the police using her cell phone. Subsequent to her phone call, she noticed that the eleven dollars, the radar detector, and the green sucker were missing from the truck. Ignition wires were stripped on the four-wheeler. According to Atkinson, she had seen Rambeau previously, “walking up and down the street on several occasions.”

Later, Atkinson found the green sucker and the radar detector just outside of her yard. She also discovered a muddy footprint from Nike basketball shoes in her yard. Atkinson noted that when she observed Rambeau that day, he was wearing Nike basketball shoes. Ignition wires for the four-wheeler were found a short distance away from where they discovered the vehicle. She noted that Rambeau was arrested shortly after they discovered the four-wheeler’s location. She admitted that, while searching for the stolen property, she did not find any cutting tools.

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Vernor corroborated Atkinson's testimony concerning the discovery of Rambeau in the street, and the four-wheeler a short distance away. He also confirmed that the wires from the missing four-wheeler were found at 398 Geronimo, which was on the same street where he resided. Vernor valued the four-wheeler at between \$750 and \$1000. Vernor also confirmed finding a footprint in his yard, and stated that he did not make the mark because it was too small to fit his feet. Additionally, he was able to establish the time of discovery of the theft at approximately 4:45 a.m. However, like Atkinson, he admitted that he did not find any cutting tools in his search for his property.

Connie Payne, Vernor and Atkinson's neighbor, testified that in the early morning hours of August 17, 2008, between midnight and two a.m., she was awakened by her dogs barking. She observed a man wearing a red bandana who was coasting down the road atop a vehicle that she identified as either a four-wheeler or a lawn mower. Later, he reappeared, walking back up the road. She noted that he was wearing blue jean shorts as well as the red bandana. The next morning, Payne learned from Atkinson that someone had stolen some items that night.

Garland County jailer Gary Davis testified that when Rambeau was booked into his facility at 5:55 a.m. on August 17, 2008, he was carrying a ten-dollar bill and a one-dollar bill. Following this testimony, the State rested, and Rambeau moved for a directed verdict, arguing that the evidence was insufficient to prove that he was the person who had committed the alleged crimes. The trial court denied the motion, and Rambeau did not

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present any evidence. Rambeau was convicted as charged.

When we review a challenge to the sufficiency of the evidence, we must affirm the trial court if the verdict is supported by substantial evidence, direct or circumstantial. *Jackson v. State*, 363 Ark. 311, 214 S.W.3d 232 (2005). Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture. *Id.* When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the verdict, and we consider only evidence supporting the verdict. *Id.*

Where circumstantial evidence alone is relied upon, it must exclude every other reasonable hypothesis than that of guilt of the accused; otherwise it is not substantial evidence. *Id.*

Rambeau first argues that the evidence was insufficient to sustain his conviction for theft of property, because both Atkinson and Vernor testified that he was at least 100 to 300 yards from the four-wheeler, Payne could not positively identify him as the person on the four-wheeler, and none of the witnesses found knives or other cutting instruments used to strip the four-wheeler's ignition wire. We disagree.

First, as noted previously, we do not consider evidence—or lack of evidence—that would support reversing a conviction. Accordingly, the failure to find the implement that the thief used to strip the ignition wires is not evidence that we even consider in our review. Second, and more importantly, the unique combination of facts—Rambeau's proximity to the stolen four-wheeler, the identification of a man wearing jean shorts and a red bandana on

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what appeared to be a four-wheeler just a couple of hours earlier, and identification of what appeared to be Rambeau's footprint in the yard where the theft occurred, all during early morning hours—does not require the finder of fact to resort to speculation and conjecture to conclude that Rambeau stole the four-wheeler. We hold that the evidence was sufficient.

Likewise, Rambeau argues that the circumstantial evidence, finding a ten-dollar bill and a one-dollar bill on his person, was insufficient proof that he had entered the truck. This argument, however, ignores the other evidence such as Vernor finding the footprint near the truck, Rambeau's proximity to the stolen four-wheeler, which was also located near the truck, and Payne's identification of a man dressed in the same manner as Rambeau just hours before, in relatively close proximity to the truck. As with the theft-of-property count, we hold that the evidence was sufficient to sustain Rambeau's conviction for breaking or entering.

Affirmed.

PITTMAN and BAKER, JJ., agree.