ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE
DIVISION III

CACR06-377

December 6, 2006

DENNIS WAYNE COOPER APPELLANT	APPEAL FROM THE COLUMBIA COUNTY CIRCUIT COURT [NO. CR-05-122]
V.	HON. LARRY CHANDLER, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

The appellant was charged with commercial burglary and theft of property under $500. After a bench trial, appellant was found guilty of these offenses and sentenced to eight years in the Arkansas Department of Correction. On appeal, he argues that the trial court erred in denying his motion for a directed verdict on the charge of commercial burglary. We affirm.

A person commits commercial burglary if he enters or remains unlawfully in a commercial occupiable structure of another with the purpose of committing therein any

offense punishable by imprisonment.[1] Ark. Code Ann. § 5-39-201(b)(1) (Repl. 2006). A person commits theft of property if he knowingly takes or exercises unauthorized control over the property of another person with the purpose of depriving the owner thereof. Ark. Code Ann. § 5-36-103(a)(1) (Repl. 2006).

A motion for a directed verdict is a challenge to the sufficiency of the evidence. *Woolbright v. State*, 357 Ark. 63, 160 S.W.3d 315 (2004). In determining the sufficiency of the evidence, we review the evidence in the light most favorable to the appellee, considering only the evidence that supports the verdict, and we affirm if the verdict is supported by substantial evidence, direct or circumstantial. *Pinder v. State*, 357 Ark. 275, 166 S.W.3d 49 (2004). Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture. *Hampton v. State*, 357 Ark. 473, 183 S.W.3d 148 (2004).

Here, there was evidence that the custodian of the Central Baptist Church arrived at the church to begin work at 5:00 a.m. Six minutes after he arrived, he heard a heavy door slam. He investigated and found that a motion detector light was illuminated, indicating that an intruder had passed by. The custodian, seeing no one, opened the door through which he had entered the building when he arrived for work minutes before. He saw a bag of cleaning

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[1]"Imprisonment" includes incarceration in a detention facility operated by the state or any of its political subdivisions. Ark. Code Ann. § 5-4-101(4)(A)(i) (Repl. 2006). Entry with purpose to commit petit theft thus suffices to create liability. *See* Original Commentary to Ark. Code Ann. § 5-39-201; *see also Brown v. State*, 12 Ark. App. 132, 671 S.W.2d 228 (1984).

supplies outside the door that had not been there when he arrived at work. The cleaning supplies were of the same type used by the church. The supplies were not of a type that is available at retail stores; they had been procured from a commercial dealer. Identical supplies belonging to the church were normally kept in a utility closet. The custodian went to the utility closet and opened the door. Appellant was standing in the dark utility closet facing the door. Appellant asked the startled custodian not to call the police, and left the building.

Appellant argues that there was no evidence that he was on the premises for the purpose of committing a theft because there was no evidence that he possessed the bag found outside the door, or that the items in the bag were the property of the church. We do not agree. Although it is true that specific intent cannot be inferred solely from proof of an illegal entry, *Forgy v. State*, 302 Ark. 435, 790 S.W.2d 173 (1990), intent may be inferred from circumstantial evidence so long as such evidence is consistent with the guilt of the defendant and inconsistent with any other reasonable conclusion. *Atkins v. State*, 63 Ark. App. 203, 979 S.W.2d 903 (1998). Here, appellant was present in the building in the early morning hours, commercial cleaning items precisely like those used by the church had been gathered up as if to be carried off, appellant was immediately thereafter found concealing himself in the utility closet where such items were normally kept and, when discovered, asked the custodian not to call the police. We can conceive of no rational explanation for these circumstances other than appellant's guilt. *See Flowers v. State*, 342 Ark. 45, 25

S.W.3d 422 (2000); *Tiller v. State*, 42 Ark. App. 64, 854 S.W.2d 730 (1993); *Jimenez v. State*, 12 Ark. App. 315, 675 S.W.2d 853 (1984).

Affirmed.

GLADWIN and ROBBINS, JJ., agree.