IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL ANDREWS,	§	No. 338, 2000
	§	
Defendant Below,	§	Court Below: Family Court of
Appellant,	§	the State of Delaware In and
	§	For New Castle County
v.	§	
	§	JN-99-3184
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 6, 2001
Decided: April 30, 2001

Before **VEASEY,** Chief Justice, **BERGER** and **STEELE**, Justices.

ORDER

This 30th day of April 2001, it appears to the Court that:

(1) The defendant-appellant, Daniel Andrews,[1] was adjudicated delinquent in the Family Court of the offenses of Receiving Stolen Property (Felony)[2] and Conspiracy in the Second Degree (for agreeing to engage in conduct constituting the felony of receiving stolen property).[3] Andrews appeals from those adjudications. Andrews was also adjudicated delinquent of

[1] This is a pseudonym used to protect the identity of the juvenile defendant. Sup. Ct. R. 7(d).

[2] 11 *Del. C.* § 851.

Disregarding a Red Light,[4] No Proof of Insurance,[5] and Driving Without a License.[6] He does not appeal in regard to those offenses.

(2) On Sept. 1, 1999 at approximately 1:20 a.m., University of Delaware Police Officer Robert W. Simpson stopped a red 1991 Oldsmobile Bravado with Delaware license plates for running a red light. The car was driven by Andrews and had two other occupants. Simpson asked Andrews for his driver's license, registration, and proof of insurance for the vehicle. Andrews searched for the documents, looking around the vehicle and then patting himself before telling Simpson that he did not have them.

(3) In response to further questioning by Simpson, Andrews indicated that he had borrowed the car from a "friend." Andrews described the friend as a white female named "Gooch" who lived in his neighborhood in Maryland. He was unable to give a first name or street address for this friend. Upon further checking of records while at the scene Simpson learned that Andrews was driving a stolen car. In fact, it had been stolen from in front of its owner's home in New Castle County on August 15, 1999.

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[3] 11 *Del. C.* § 512.
[4] 21 *Del. C.* § 4108(a).

[5] 21 *Del. C.* § 2118(p).

[6] 21 *Del. C.* § 2701(a).

(4) In his trial testimony, Andrews elaborated on his claim to have borrowed the car. Andrews testified that he borrowed the car from a neighbor in Maryland, named Christy Johnson, who was "probably in the twenties to thirties." He claimed that he borrowed the car from her at 11:30 p.m. on the night he was pulled over in order to drive to a certain nightclub in Delaware. Andrews testified that he did not know the car was stolen, having seen his neighbor driving the car a week earlier. Andrews explained that at the time of his arrest, he knew Christy Johnson only as "Gooch," but that he had since learned her real name.

(5) In this appeal, Andrews raises two claims of insufficient evidence with regard to the charges of receiving stolen property and conspiracy. First, he argues that there was insufficient evidence that he received stolen property in Delaware (as opposed to in Maryland), and that therefore he cannot be found delinquent since the State must prove that the conduct constituting the offenses occurred in Delaware. Andrews failed to present this issue to the Family Court. Second, he argues that there is insufficient evidence that he knew that the car he was driving had been stolen. This claim was presented to the Family Court in a motion for acquittal which the Family Court denied, stating, "Since I find that [Andrew's] story was not believable and I credit the testimony of the witnesses

for the State, I can conclude that the State has proven beyond a reasonable doubt that the defendant is guilty [of the charged offenses]."

(6) Because Andrews did not present the first claim to the trial court, we review this claim for plain error.[7] In the exercise of our discretion, this Court has reached the merits of claims of insufficient evidence even where they have not been raised below.[8] In this case, we conclude that the interests of justice do not require us to consider Andrew's claim. Andrews was pulled over in Delaware while driving a car that had been stolen in Delaware two weeks earlier. As noted, the trial judge did not believe his testimony that he "borrowed" the car in Maryland, stating, "It's clear that he was making up a story." On this record, we cannot conclude that the trial court committed plain error when it found the defendant guilty of receiving stolen property in Delaware.

(7) Turning to Andrews' second claim, the issue is whether "any rational trier of fact, viewing the evidence in the light most favorable to the State, could find [a] defendant guilty beyond a reasonable doubt."[9] Our review of this

[7] *See Gordon v. State*, Del. Supr., 604 A.2d 1367, 1368 (1992); Sup. Ct. R. 8.

[8] *See id.; see also Monroe v. State*, Del. Supr., 652 A.2d 560, 563 (1995) (reaching merits of claim of insufficient evidence in the interests of justice where the defendant would have been entitled to a judgment of acquittal if a motion had been made at the end of the State's case).

[9] *Monroe*, 652 A.2d at 563 (*quoting Robertson v. State*, Del. Supr., 596 A.2d 1345, 1355 (1991)).

claim is de novo.[10] Andrews argues that the evidence at trial (*i.e.*, his own testimony regarding his neighbor) shows that he did not know the car had been stolen. There was also evidence that the car had sustained certain damages, including a cracked windshield and a loose steering column. This damage, however, was not detected by Officer Simpson during the traffic stop or reflected in Simpson's report of the incident, and Andrews argues that the only reasonable inference is that these damages occurred *after* the car had been towed, perhaps during storage, and therefore do not constitute evidence that Andrews knew or believed that the car had been stolen.[11]

(8) Andrews' arguments are without merit. When viewed in the light most favorable to the State, the evidence at trial would permit a rational trier of fact to conclude that Andrews knowingly received stolen property. This evidence includes: (1) Andrews' behavior as recounted by Officer Simpson; (2) his unconvincing account(s) of having borrowed the stolen car he was driving; and (3) the damages to the car, which Officer Simpson may not have noticed simply because, as he testified, his inspection was not thorough. Therefore, Andrews' second claim of insufficient evidence must also be rejected.

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[10] *Cline v. State*, Del. Supr., 720 A.2d 891, 892 (1998).

[11] *See* 11. *Del. C.* § 851.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice