

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JANUARY TERM 2005

MARCY E. BENDER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

CASE NO. 4D03-4347

Opinion filed January 12, 2005

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Richard I. Wennet, Judge; L.T. Case No. 03-2146 CFA02.

Carey Haughwout, Public Defender, and John M. Conway, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Monique E. L'Italien, Assistant Attorney General, West Palm Beach, for appellee.

WARNER, J.

Marcy Bender appeals her convictions of burglary of a dwelling, uttering a forged instrument, and grand theft. As to the charge of burglary, she claims that the evidence was insufficient to show that she was a principal to the burglary of the victim's home. We disagree and affirm.

Bender had possession of and attempted to cash checks stolen from the victim, Bender's neighbor. In *Francis v. State*, 808 So. 2d 110, 134 (Fla. 2001), the court stated, "[U]nexplained possession of recently stolen property is not only sufficient to support a theft conviction, but when a burglary necessarily occurs as an adjunct, the inference of guilt from

the unexplained possession of the recently stolen goods also supports a conviction for burglary.'" (quoting *T.S.R. v. State*, 596 So. 2d 766, 767 (Fla. 5th DCA 1992)).

Similarly, in this case Bender's possession of the stolen checks was sufficient to support the conviction. Although she also contends that the conviction is the result of the pyramiding of inferences, we think this is a case involving a number of facts from which one inference is to be made. See *Matalon v. Lee*, 847 So. 2d 1077, 1080 (Fla. 4th DCA 2003) (holding that plaintiff did not improperly stack inferences but instead introduced facts from which one inference was to be made).

We affirm the remaining issues without further discussion.

Affirmed.

POLEN and GROSS, JJ., concur.

***NOT FINAL UNTIL DISPOSITION OF ANY
TIMELY FILED MOTION FOR REHEARING.***