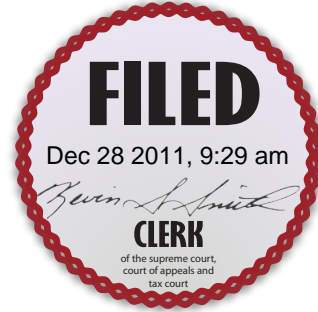


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

D.E.,)
)
Appellant,)
)
vs.) No. 49A04-1106-JV-286
)
STATE OF INDIANA,)
)
Appellee.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Gary Chavers, Judge Pro Tem
The Honorable Scott Stowers, Magistrate
Cause No. 49D09-1103-JD-687

December 28, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

D.E. was adjudicated a delinquent child for committing receiving stolen property, which is a Class D felony if committed by an adult. D.E. appeals the Marion Superior Court's delinquency adjudication and argues that the evidence is insufficient to prove that he knew the property was stolen.

We affirm.

Facts and Procedural History

On March 21, 2011, at approximately 8:30 a.m., Indianapolis Metropolitan Police Officer Larry Stargel ("Officer Stargel") witnessed D.E. and another individual fail to properly signal a turn while riding scooters. Officer Stargel initiated a traffic stop, and while speaking to D.E. and the other individual, observed damage to the scooters that led him to conclude that the scooters had been stolen. Specifically, the scooter that D.E. was riding had visible and extensive damage to the "ignition device" and the key was protruding partially out of the ignition. This led the officer to conclude that the key did not belong to the actual scooter in D.E.'s possession. Tr. p. 7.

Officer Stargel asked D.E. and the other individual if they had any paperwork "to the scooters." Tr. p. 7. After they were unable to provide any proof of ownership, the officer obtained the VIN numbers and conducted a VIN verification check. Officer Stargel then learned that the scooters had been reported stolen on March 19, 2011. The scooters were stolen from a residence approximately one to two miles from the location of the traffic stop. Upon confirming that the scooters were stolen, Officer Stargel arrested D.E.

On March 22, 2011, the State filed a petition alleging that D.E. was a delinquent child for committing receiving stolen property, which is a Class D felony if committed by an adult. The juvenile court held a fact-finding hearing on April 18, 2011, and at the close of the evidence, entered a true finding. At the dispositional hearing held on May 18, 2011, the juvenile court adjudicated D.E. a delinquent child and placed him on probation with a suspended commitment to the Department of Correction. D.E. was ordered to participate in certain services, therapy, and a restitution work program. D.E. now appeals.

Discussion and Decision

D.E. argues that the evidence is insufficient to prove that he knew that the scooter was stolen. When we review the sufficiency of the evidence to support a delinquency adjudication, we consider only the probative evidence and reasonable inferences supporting the adjudication. D.W. v. State, 903 N.E.2d 966, 968 (Ind. Ct. App. 2009), trans. denied. We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court's ruling. R.H. v. State, 916 N.E.2d 260, 267 (Ind. Ct. App. 2009) (citing Drane v. State, 867 N.E.2d 144, 146–47 (Ind. 2007)), trans. denied. We will affirm the adjudication unless no reasonable fact-finder could find the elements of the offense proven beyond a reasonable doubt. Id. It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. The evidence is sufficient if an inference may reasonably be drawn from it to support the adjudication. Id.

The offense of receiving stolen property is defined in Indiana Code section 35-43-4-2(b) and provides: “A person who knowingly or intentionally receives, retains, or

disposes of the property of another person that has been the subject of theft commits receiving stolen property[.]” The State must prove the statutory elements beyond a reasonable doubt, but must also prove that the person knew that the property was stolen. Forston v. State, 919 N.E.2d 1136, 1139 (Ind. 2010); see also Ind. Code § 35–41–2–2(d) (“Unless the statute defining the offense provides otherwise, if a kind of culpability is required for commission of an offense, it is required with respect to every material element of the prohibited conduct.”).

“[K]nowledge that property is stolen may be inferred from the circumstances surrounding the possession.” Forston, 919 N.E.2d at 1129 (citations omitted). It is well settled that “surrounding circumstances” must include something more than the mere unexplained possession of recently stolen property. Id. “Knowledge that the property is stolen may be established by circumstantial evidence; however, knowledge of the stolen character of the property may not be inferred solely from the unexplained possession of recently stolen property.” Id. (quoting Barnett v. State, 834 N.E.2d 169, 172 (Ind. Ct. App. 2005) (citation omitted)).

It is undisputed that D.E. was in possession of a recently stolen scooter, which was taken from a residence near the location of the traffic stop. The scooter’s ignition device was visibly damaged, and because it was protruding partially out of the ignition, the key used to operate the scooter was likely not the scooter’s proper key. This circumstantial evidence is sufficient to support a reasonable inference that D.E. knew that the scooter was stolen. His argument to the contrary is merely a request to reweigh the evidence and the credibility of the witnesses, which our court will not do.

For these reasons, we affirm the juvenile court's delinquency adjudication.

Affirmed.

FRIEDLANDER, J., and RILEY, J., concur.