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NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-001828-MR

MATTHEW VONTEZ SLAUGHTER

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE ERNESTO M. SCORSONE, JUDGE
ACTION NO. 17-CR-00175

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * **

BEFORE: DIXON, JONES, AND K. THOMPSON, JUDGES.

JONES, JUDGE: Following a jury trial in Fayette Circuit Court, the Appellant, Matthew Vontez Slaughter, was found guilty of second-degree burglary and being a second-degree persistent felony offender. The Fayette Circuit Court entered a judgment of conviction consistent with the jury's verdict and sentenced Slaughter to serve an enhanced sentence of ten years. Slaughter appeals his conviction as a matter of right. On appeal, Slaughter asserts that the trial court erred when it

denied his motion for a directed verdict of acquittal. Having reviewed the record in conjunction with all applicable legal authority, we affirm.

I. BACKGROUND

The events at issue occurred on the morning of January 11, 2017.

Slaughter woke up that morning feeling depressed and worried about finances and family issues. He decided to leave his apartment so he could “bum” a cigarette off a friend. It was a cold morning so Slaughter put on a hooded coat and gloves. While Slaughter was not able to find a cigarette, he did find some synthetic marijuana in his pocket that he smoked.

Slaughter claims that he was not feeling well after smoking the synthetic marijuana so he decided to go back to his apartment and wait for the “high to wear off.” However, Slaughter did not go to his own apartment. Instead, he approached a single-family home about a block away from his apartment building. The home belonged to Jean and Silver Simpson. When Slaughter arrived at their home, Mrs. Simpson was out buying groceries and Mr. Simpson was still asleep in his bed. The Simpsons’ son had installed surveillance cameras at the front and back entrances of the Simpsons’ home. The cameras recorded Slaughter’s movements outside the Simpsons’ home that morning. The recordings were played during Slaughter’s trial.

On the front camera, Slaughter is seen approaching the home. His jacket hood is pulled up. He looks around the area and then peers in two front windows. He repeats this process. The video from the back door shows Slaughter walk up and try the door to see if it is locked. When the door does not open, Slaughter walks away, but returns approximately thirty seconds later. Slaughter looks at the door, then rams his shoulder into it twice. When the door breaks open, Slaughter enters the home where he remains for the next four minutes. He then exits the home and leaves on foot.

When Mrs. Simpson returned home, she saw the broken door. Mrs. Simpson went to check on Mr. Simpson. She found him still in bed asleep. The Simpsons then called the police to make a report that their home had been broken into. After checking the home, the Simpsons were unable to identify anything missing. The Simpsons turned over the surveillance videos from their cameras to police.

Police contacted Slaughter at his residence. He first denied any involvement with the incident, however, once arrested and placed inside the patrol car, Slaughter spoke with the officers and stated that he had broken down the door but did not steal anything. He later raised the defense that he was intoxicated due to smoking the synthetic marijuana and mistakenly thought he was breaking into his own home.

Slaughter was indicted on burglary in the second degree and persistent felony offender in the second degree on February 14, 2017. On August 28, 2017, a jury trial was held, and Slaughter was convicted of both charges. On October 25, 2017, the Fayette Circuit Court entered a final judgement sentencing Slaughter to ten years in the state prison.

II. ANALYSIS

The sole issue presented on appeal is whether the trial court erred in denying Slaughter's motion for a directed verdict of acquittal. "A defendant is entitled to a directed verdict of acquittal when, after all fair and reasonable inferences from the evidence are drawn in favor of the Commonwealth, the evidence is insufficient to induce a reasonable juror to believe beyond a reasonable doubt that the defendant is guilty." *Ross v. Commonwealth*, 531 S.W.3d 471, 474-75 (Ky. 2017) (citing *Commonwealth v. Benham*, 816 S.W.2d 186, 187 (Ky. 1991)). "On appellate review, the test of a directed verdict is, if under the evidence as a whole, it would be clearly unreasonable for a jury to find guilt, only then the defendant is entitled to a directed verdict of acquittal." *Baker v. Commonwealth*, 545 S.W.3d 267, 278 (Ky. 2018) (quoting *Commonwealth v. Sawhill*, 660 S.W.2d 3, 5 (Ky. 1983)).

"A person is guilty of burglary in the second degree when, with the intent to commit a crime, he knowingly enters or remains unlawfully in a

dwelling.” KRS 511.030(1). Slaughter contends that the evidence presented by the Commonwealth was legally insufficient to convict him of burglary as the evidence was merely circumstantial as to the element of intent. While Slaughter admits to the fact that he unlawfully entered the Simpsons’ home, he claims that he did so mistakenly and therefore never had the requisite intent to commit a crime therein. Slaughter supports this argument with the fact that no items were taken from the home. He also argues that the Commonwealth should not be permitted to rely on his attire (a hooded jacket and gloves) as circumstantial evidence of his intent because his clothing was appropriate for the weather.

If the only evidence the Commonwealth relied on was Slaughter’s dress, we might tend to agree that it was insufficient. However, the Commonwealth’s evidence was based primarily on Slaughter’s actions as shown in the surveillance videos. He is seen approaching the home, looking in windows, and trying the back door before he uses his shoulder to ram the door open. Slaughter’s actions are consistent with someone planning to unlawfully enter a home for the purpose of stealing. “It is well established that mens rea and intent may be established by or inferred from circumstantial evidence.” *Reynolds v. Commonwealth*, 113 S.W.3d 647, 652 (Ky. App. 2003). Even though Slaughter might have changed his mind once he gained entry, there was sufficient evidence

presented to the jury that Slaughter planned to commit a crime once he gained entry to the home.

The Commonwealth presented sufficient evidence from which the jury could reasonably conclude that Slaughter entered the Simpsons' home with an intent to commit a crime therein. The trial court did not abuse its discretion when it denied Slaughter's motion for a directed verdict of acquittal.

III. CONCLUSION

For the foregoing reasons, we affirm the Fayette Circuit Court's judgment of conviction and sentence.

ALL CONCUR.

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