NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2000-KA-1634**
VERSUS	*	**COURT OF APPEAL**
SHONG M. JACKSON	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**

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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 412-479, SECTION "J"
Honorable Leon Cannizzaro, Judge

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Chief Judge William H. Byrnes, III

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(Court composed of Chief Judge William H. Byrnes, III, Judge Steven R. Plotkin, and Judge Max N. Tobias, Jr.)

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AFFIRMED

Shong M. Jackson appeals his conviction and sentence for violation of La. R.S. 14:69(A), possession of a stolen auto, as a second offender under La. R.S. 15:529.1. We affirm.

Jackson was charged by bill of information on February 3, 2000, with possession of stolen property worth more than $500. After a trial on February 24, 2000, a six-member jury found him guilty as charged. He was sentenced on April 24, 2000 to serve seven years at hard labor as a second offender under La. R.S. 15:529.1 and also under La. R.S. 15:574.5, the About Face Program. The defendant's appeal followed.

At trial Sebastian Scontrino testified that about 8:00 p.m. on December 12, 1999, his 1990 Oldsmobile Cutlass was stolen. Mr. Scontrino purchased the car from his aunt about one and one-half years before it was stolen. He paid $2,000 for the car that had been driven 49,000 miles at the time of the theft. He testified that the car was in "great shape," and he also identified photographs of the vehicle which were introduced into evidence. After he notified the police of the theft, the next day he learned that the car had been found. However, it was damaged: the trunk lock, the ignition, and steering column were broken, and the right front fender was dented.

Merchandise that had been in the car was stolen. Mr. Scontrino stated that he had never met Jackson before and did not give him permission to drive the car.

Officers Vincent Farrell and Ray Jones testified that they were patrolling near the intersection of Olive and Eagle Streets when they saw three men running from a car. On closer inspection of the car parked on Olive Street, the officers noted that the car's trunk lock was broken and the steering column was defeated. The State introduced photographs that the officers identified as depicting the condition of the car when they found it. When Officer Farrell entered the vehicle number in the police computer, he discovered that the car was stolen. Officer Jones chased the men leaving the car. He followed Jackson, whom he had seen exiting the driver's seat of the car, into the back yard at 8801 Olive Street where Officer Jones saw Jackson run up steps. At that point, Jackson was facing the officer, and they made eye contact. From the top of the steps, Jackson jumped over a fence into the next yard, and the officer lost him. Officers Farrell and Jones drove around the neighborhood until they saw Jackson walking. He was arrested.

Jackson claims that the evidence is insufficient to support the

conviction.

This Court considered a similar case in *State v. Thomas*, 99-1955 (La. App. 4 Cir. 1/26/00), 752 So.2d 318. Citing *State v. Ash*, 97-2061 (La. App. 4 Cir. 2/10/99), 729 So.2d 664, *writ denied*, 99-0721 (La. 7/2/99), 747 So.2d 15, this court summarized the standard of review that applies when a defendant claims that the evidence produced to convict him was constitutionally insufficient as follows:

> In evaluating whether evidence is constitutionally sufficient to support a conviction, an appellate court must determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). The reviewing court is to consider the record as a whole and not just the evidence most favorable to the prosecution; and, if rational triers of fact could disagree as to the interpretation of the evidence, the rational decision to convict should be upheld. *State v. Mussall*, 523 So.2d 1305 (La. 1988). Additionally, the reviewing court is not called upon to decide whether it believes the witnesses or whether the conviction is contrary to the weight of the evidence. *Id*. The trier of fact's determination of credibility is not to be disturbed on appeal absent an abuse of discretion. *State v. Cashen*, 544 So.2d 1268 (La. App. 4 Cir. 1989). When circumstantial evidence forms the basis of the conviction, such evidence must consist of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. *State v. Shapiro*, 431 So.2d

> 372 (La. 1982). The elements must be proved such that every reasonable hypothesis of innocence is excluded. La. R.S. 15:438. This is not a separate test from *Jackson v. Virginia*, *supra*, but rather is an evidentiary guideline to facilitate appellate review of whether a rational juror could have found a defendant guilty beyond a reasonable doubt. *State v. Wright*, 445 So.2d 1198 (La. 1984). All evidence, direct and circumstantial, must meet the *Jackson* reasonable doubt standard. *State v. Jacobs*, 504 So.2d 817 (La. 1987).
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> In order to sustain a conviction under La. R.S. 14:69, the State must prove that (1) the property was stolen; (2) the property was worth more than five hundred dollars; (3) the defendant knew or should have known that the property was stolen; and (4) the defendant intentionally received the property. La. R.S. 14:69; *State v. Hoskin*, 605 So.2d 650 (La. App. 4 Cir. 1992); *State v. Lampton*, 97-2616 (La. App. 4 Cir. 3/10/99), 729 So.2d 754.

State v. Thomas, 752 So.2d at 322-323.

Jackson now argues that the State failed to prove that the vehicle was worth more than five hundred dollars. Mr. Scontrino testified that he bought the 1990 Cutlass from an incapacitated relative for $2,000 about eighteen months prior to the theft and that the car was in good condition, having only 49,000 miles. The State introduced photographs of the vehicle that the owner identified.

The testimony of the owner as to the purchase price of the vehicle is generally sufficient to establish the value of the vehicle if it is clear and

uncontradicted. In *State v. Hoskin*, *supra*, this court held that testimony by the owner of the vehicle that the vehicle was worth three thousand dollars when it was stolen, well-maintained, in good running condition, and not dented or damaged, was sufficient to establish that the vehicle was worth over five hundred dollars at the time of the offense. See also *State v. Thomas*, 99-1955, p. 8 (La.App. 4 Cir. 1/26/00), 752 So.2d 318.

Jackson maintains that the present case is similar to *State v. Williams*, 598 So.2d 1265 (La. App. 4 Cir. 1992), *affirmed in part, modified in part and remanded*, 610 So.2d 129 (La. 1992), where the State offered no direct or circumstantial evidence to prove the value of the stolen car. However, Williams is distinguished from the present case because the State introduced photographs in the case at bar to show the condition of the car and to support the owner's testimony.

The owner of the car in this case gave unequivocal testimony on the value of the car, and he was not cross-examined on this issue. The uncontradicted testimony of the owner meets the burden of proof as to the value of the car. *State v. Hoskin*, *supra*, 605 So.2d at 652.

Jackson contends that the State failed to prove that he knew or should have known the car was stolen. However, the evidence of a cracked or defeated steering column and ignition, and the fact that the car could be

driven without a key, is certain evidence of a stolen vehicle. From these facts the jury could reasonable assume that Jackson would know that he was in possession of a stolen vehicle. See *State v. Wilson*, 544 So.2d 1300 (La. App. 4 Cir. 1989).

Finally, Jackson avers that the State failed to prove that he had possession of the auto. However, Officer Jones testified that he saw Jackson get out of the car from the driver's seat and begin to run from the police officers. Moreover, as Officer Jones chased Jackson, the two made eye contact, and Jackson jumped a fence to escape from capture. These facts—that Jackson had been driving the car and then showed fear of apprehension—were sufficient for a rational juror to have concluded that Jackson was guilty beyond a reasonable doubt of possession of stolen property.

Accordingly, the defendant's conviction and sentence are affirmed.

AFFIRMED