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NO. COA01-1012

NORTH CAROLINA COURT OF APPEALS

Filed: 7 May 2002

IN THE MATTER OF:  
KENNY COFFEY

Buncombe County  
No. 99 J 21

Appeal by juvenile from adjudication and disposition orders entered 18 December 2000 by Judge Gary S. Cash in Buncombe County District Court. Heard in the Court of Appeals 22 April 2002.

*Attorney General Roy Cooper, by Assistant Attorney General Anne Goco Kirby, for the State.*

*Assistant Public Defender Dennis Gibson, for the respondent-appellant.*

HUDSON, Judge.

On 2 August 2000, Douglas Waite, owner of the Newbridge Fruit Market in Oteen, North Carolina, arrived at the market to open up his business. After Waite entered the market, he noticed that change was missing from the register and some of it was spilled on the floor. Upon further investigation, Waite determined that someone had entered the building through a small window in the bathroom. After discovering the break-in, Waite checked the desk drawer in his office where he had hidden three stacks of fifty one-dollar bills which had been individually bundled with rubber bands. Waite found that the money was missing.

Later that day, Brittany Brown Buchanan was standing outside the Kountry Kitchen, a restaurant about a half-mile away from the fruit market, when she was approached by respondent and David Arrington, respondent's friend. Buchanan and respondent were friends. After talking with Buchanan for a short time, respondent pulled out a bundle of one-dollar bills secured by a rubber band. Respondent and Arrington told Buchanan they had stolen the money, but did not tell Buchanan from where.

After speaking with Buchanan, respondent and Arrington went into the restaurant, where they asked Melissa Trezza, an employee of the restaurant, if she would switch the money for larger bills. Trezza testified that respondent and Arrington had a couple of rolls of one-dollar bills fastened by a rubber band. After speaking with her manager about changing the money, Trezza told respondent and Arrington she could not do so, and the boys left the restaurant.

On 21 September 2000, a juvenile petition was filed alleging that respondent had broken into or entered Newbridge Fruit Market and had stolen \$150.00. An adjudicatory hearing was held on 30 November 2000. Following the hearing, respondent was adjudicated a delinquent juvenile by reason of felony breaking and entering and felony larceny. A disposition order was then entered placing respondent on supervised probation for six months. Respondent appeals.

Respondent's sole argument on appeal is that the trial court erred by denying his motion to dismiss for insufficiency of the

evidence. Respondent argues that the State presented no direct or circumstantial evidence that he broke or entered into the Newbridge Fruit Market. Respondent notes that the State used the doctrine of recent possession to show that the one-dollar bills taken from the market were the ones found in the possession of respondent. Respondent argues that the doctrine of recent possession is inapplicable here, because the State provided no evidence that the dollar bills found in his possession were in fact the same ones stolen from the market.

After careful review of the record, briefs, and contentions of the parties, we affirm. This Court has stated:

In reviewing a challenge to the sufficiency of evidence, it is not our duty to weigh the evidence, but to determine whether there was substantial evidence to support the adjudication, viewing the evidence in the light most favorable to the State, and giving it the benefit of all reasonable inferences.

*In Re Heil*, 145 N.C. App. 24, 29, 550 S.E.2d 815, 819 (2001).

In the case *sub judice*, the petition alleged that respondent was delinquent for felonious breaking or entering and larceny in violation of N.C. Gen. Stat. § 14-54 (1999) and N.C. Gen. Stat. § 14-72 (1999). The State argues that the doctrine of recent possession links respondent to the breaking or entering and larceny. Under the doctrine of recent possession:

A person found in unexplained possession of recently stolen property is presumed to be the thief if (1) the property is stolen, (2) the property stolen was possessed by the accused, and (3) the accused possessed the stolen property recently after the larceny. Simply, the [accused's] possession of the fruits of the crime recently after its

commission [justify] the inference of guilt on his trial for larceny.

*In re Phillips*, 128 N.C. App. 732, 736, 497 S.E.2d 292, 294-95, *disc. review denied*, 348 N.C. 283, 501 S.E.2d 919 (1998) (internal quotation marks and citation omitted) (alteration in original). The evidence presented by the State tended to show that on the same day the break-in at the fruit market was discovered, respondent was seen at a nearby restaurant with bundled rolls of one-dollar bills similar to those that had been stolen from the market. Respondent first showed the money to Buchanan, a friend, and told her he had stolen the money. Buchanan testified that respondent pulled out "ten or fifteen ones in a wad." Respondent then went into the restaurant where he tried to change the dollar bills for larger bills. Trezza, who worked in the restaurant, testified that respondent had a couple of rolls of one-dollar bills secured by a rubber band. Respondent's possession of these bundles of one-dollar bills so soon after and so close to the scene of the break-in and larceny, coupled with defendant's admission to Buchanan that the money was stolen, leads us to conclude there was substantial evidence to support the adjudication. Accordingly, we affirm.

Affirmed.

Judges GREENE and TYSON concur.

Report per Rule 30(e).