

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 64266-9-I
)	
Respondent,)	
v.)	UNPUBLISHED OPINION
)	
ABDIRASHID M. ALI)	
AKA ABDULLAHI M. ALI,)	
)	
Appellant.)	FILED: May 23, 2011

Schindler, J. — To convict a defendant of possession of a stolen vehicle, the State must prove beyond a reasonable doubt that the defendant knowingly possessed and withheld or appropriated the stolen vehicle “to the use of any person other than the true owner or person entitled thereto.”¹ Abdirashid Ali seeks reversal of his jury conviction for possession of a stolen motor vehicle arguing (1) insufficient evidence establishes that the victim had the exclusive authority or control of the stolen vehicle and (2) the State did not prove the victim was the true owner as charged in the information. We reject Ali’s arguments, and affirm.

FACTS

Rahil Vora rented a silver Ford Explorer from Budget Car Rental. On July 5,

¹ RCW 9A.56.140(1).

2008, three or four days after renting the sport utility vehicle (SUV), Vora drove to a bar to play pool. After parking the SUV, Vora put the keys in his jacket pocket. Vora said that he left the bar approximately three hours later and “the car was just gone, and my keys were gone.” Vora called the police to report that the car was stolen.

At approximately 5:45 a.m. on Saturday July 12, Washington State Patrol Sergeant Darren Mihelich was controlling traffic at a construction site located at East Marginal Way in south Seattle. A silver SUV was driving the wrong way in the construction zone. Trooper Mihelich yelled at the driver, “What are you doing?” The driver stopped the SUV approximately 15 to 20 feet away from where Trooper Mihelich was standing. Trooper Mihelich said a black male was driving, another black male was sitting in the passenger seat, and all the windows of the SUV were down. As Trooper Mihelich approached the car, the driver went over a curb and around the Trooper in an effort to get away. Trooper Mihelich got in his patrol car and eventually stopped the SUV.

Trooper Mihelich said that the SUV was covered in a sugary substance, all the windows were broken, and there was safety glass all over the inside of the car. Trooper Mihelich smelled a strong odor of alcohol and cologne in the car, and said the driver and the passenger of the car appeared intoxicated. Trooper Mihelich said that the driver’s eyes were watery and bloodshot, and there was an open can of Budweiser beer in the center console next to the driver.

Trooper Mihelich asked the driver for his driver’s license and the paperwork for the SUV. The driver told the Trooper that he was confused, that his name was “Abrshid

M. Ali,” and his date of birth was January 1, 1980. The driver said that he did not have his driver’s license, registration, or proof of insurance for the car with him. Ali told Trooper Mihelich that “it wasn’t his car. It was his cousin’s rig.” The passenger identified himself as Kulmiye Kulmiye. After checking the Department of Licensing database, Trooper Mihelich learned that the SUV had been reported stolen. Trooper Mihelich arrested Ali and released Kulmiye. A plastic tag containing information about the make, model, and license number of the car was attached to the key to the car.

At the Tukwila Police Station, an officer originally wrote the name “Kulmiye” in the arrest log, then crossed that name out and wrote the name “Abdirashid Ali.” Photographs and fingerprints were taken when Ali was booked at the King County Jail. The insurance company contacted Vora after the SUV was recovered. Vora was responsible for paying approximately \$1,000 in damages to the SUV.

The State charged Ali with possession of a stolen vehicle, Count I, and driving while under the influence, Count II.

At trial, the defense argued that Ali was not the driver of the SUV and the Trooper arrested the wrong person. Several witnesses testified, including Vora, Trooper Mihelich, the identification technician responsible for booking Ali at the King County Jail, and fingerprint examiner Alan Christensen. The court admitted the booking photo and fingerprints into evidence.

Vora testified that he had rented the car from Budget, that he did not know Ali, and he did not give Ali permission to take the rental car. The fingerprint examiner testified that the fingerprints obtained at the King County Jail belonged to Ali. The

defense did not call any witnesses at trial.

The jury convicted Ali of possession of a stolen vehicle and driving under the influence. Ali appeals the jury conviction of possession of a stolen vehicle.²

ANALYSIS

Ali argues that the State did not prove beyond a reasonable doubt that he withheld or appropriated the motor vehicle for the use of someone other than the “person entitled thereto.” The test for determining the sufficiency of the evidence is whether after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). A challenge to the sufficiency of the evidence admits the truth of the State's evidence. Salinas, 119 Wn.2d at 201. Further, “all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant.” Salinas, 119 Wn.2d at 201.

Ali was charged and convicted of possession of a stolen vehicle in violation of RCW 9A.56.068 and RCW 9A.56.140. Under RCW 9A.56.068, “A person is guilty of possession of a stolen vehicle if he or she possesses a stolen motor vehicle.” RCW 9A.56.140(1) defines possession of stolen property as follows:

[K]nowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

For purposes of the theft statute, RCW 9A.56.010(9) defines “owner” to mean:

[A] person, other than the actor, who has possession of or any other

² Ali does not appeal the jury conviction of driving while under the influence.

interest in the property . . . involved, and without whose consent the actor has no authority to exert control over the property.

Ali contends insufficient evidence establishes he is guilty of possession of a stolen motor vehicle because the State presented no evidence to establish that Vora had exclusive control or the authority to prohibit possession of the rental car. Ali asserts that Budget had the “sole authority to consent to allow another to exert control over the SUV” and there was no evidence Vora was authorized to exert control over the SUV. We disagree.

The crime of possession of a stolen motor vehicle requires that the stolen vehicle is the “property . . . of another.” RCW 9A.56.020(1). The meaning of “property of another” is derived from the definition of “owner.” State v. Pike, 118 Wn.2d 585, 590, 826 P.2d 152 (1992). In Pike, the court held that in order “to constitute the property of another, the item must be one in which another person has an interest, and the defendant may not lawfully exert control over the item absent the permission of that other person.” Pike, 118 Wn.2d at 590.

However, the theft statutes do not require that the person who has possession and “without whose consent the actor has no authority to exert control over the property” must have exclusive ownership of the property. RCW 9A.56.010(9); State v. Joy, 121 Wn.2d 333, 340, 851 P.2d 654 (1993).

“[I]n cases of theft and larceny proof of ownership of the stolen property in the specific person alleged is not essential. The State is required to prove only that it belonged to someone other than the accused.”

State v. Greathouse, 113 Wn. App. 889, 901, 56 P.3d 569 (2002) (quoting State v. Lee, 128 Wn.2d 151, 159, 904 P.2d 1143 (1995)).

Viewing the evidence in the light most favorable to the State, the evidence supports the determination that Vora was entitled to exert control over the SUV. While there was no dispute Budget Car Rental was the true owner, the evidence established that Vora rented the SUV from Budget, that he did not know Ali, and he did not give Ali permission to use the car.

Ali's reliance on State v. Blewitt, 37 Wn. App. 397, 680 P.2d 457 (1984) is misplaced. In Blewitt, the court looked at "the totality of the situation" in determining whether an employee had constructive possession of the employer's property for purposes of proving dominion and control for purposes of the robbery statute. Blewitt, 37 Wn. App. at 399 (quoting State v. Partin, 88 Wn.2d 899, 906, 567 P.2d 1136 (1977)); RCW 9A.56.190. Because the employee had the "implied responsibility of exercising control over the employer's property as against all others," the court held sufficient evidence supported the robbery conviction. Blewitt, 37 Wn. App. at 399. Here, even under a "totality of the situation" analysis, sufficient evidence supports the jury verdict. Moreover, contrary to Ali's argument that the State had to introduce evidence of the rental agreement or testimony from a Budget employee to prove Vora has a possessory interest in the rental car, under Washington law sufficient evidence established that Vora had an ownership interest in the SUV.³ The undisputed testimony established that Vora had control over the rented vehicle as against all others.

³ The two out of state cases Ali cites, People v. McAllister, 31 Ill.App.3d 825, 334 N.E.2d 885 (1975) and State v. Wilhite, 587 S.W.2d 321 (Mo. App. E.D. 1979), are unpersuasive. In McAllister, the court held that the testimony of the store's security guard was sufficient to show that the stolen items belonged to the business. McAllister, 31 Ill.App.3d at 827. Likewise, in Wilhite, the court held that the testimony of a farm manager that the stolen property belonged to the owner of a farm was sufficient to prove ownership. Wilhite, 587 S.W.2d at 323.

Ali also asserts that because the information alleged that Vora was the “true owner,” he is entitled to reversal. The information alleged, in pertinent part:

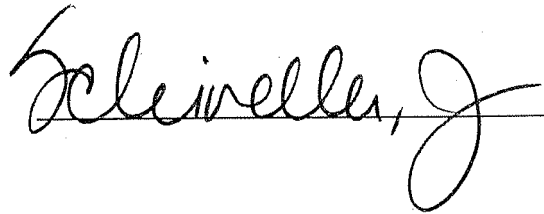
That the defendant Abdirashid M. Ali AKA Abdullahi M. Ali in King County, Washington, on or about July 12, 2008, did knowingly receive, retain, possess, conceal and dispose of a stolen motor vehicle, to-wit: a Ford truck, knowing that such property had been stolen, and did withhold and appropriate the same to the use of a person other than Vora Rahil, the true owner and person entitled thereto.^[4]

But even though the information alleges that Vora was the true owner and the “person entitled thereto,” the to-convict jury instruction states the elements of the crime in the disjunctive. The to-convict jury instruction provides:

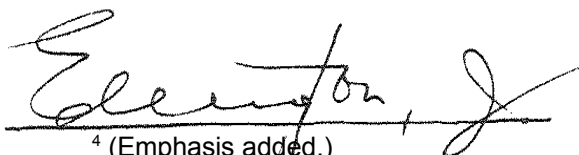
- (1) That on or about July 12, 2008, the defendant knowingly possessed a stolen motor vehicle;
- (2) That the defendant acted with knowledge that the motor vehicle had been stolen;
- (3) That the defendant withheld or appropriated the motor vehicle to the use of someone other than the true owner or person entitled thereto;
- (4) That any of these acts occurred in the State of Washington.^[5]

Because the to-convict jury instruction states the element of possession in the disjunctive, the State did not need to prove that Vora was the true owner. State v. Dixon, 78 Wn.2d 796, 802-03, 479 P.2d 931 (1971).

We affirm.



WE CONCUR:



⁴ (Emphasis added.)

⁵ (Emphasis added.)

