

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	DIVISION ONE
)	
Respondent,)	No. 66748-3-I
)	
v.)	
)	
PETER ANDREW RUNCHEY,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: July 23, 2012
_____)	

Dwyer, J. — Peter Runchey appeals from his convictions of burglary in the second degree and possession of stolen property in the second degree, contending that the evidence adduced at his trial is insufficient to support the jury’s verdicts. He asserts that the State proved neither that he entered a building (as required in order to convict him of burglary in the second degree) nor that the value of the property stolen was greater than \$750 (as required in order to convict him of possession of stolen property in the second degree). However, the record is replete with competent evidence sufficient to prove these essential elements of the charged crimes. Accordingly, we affirm.

I

On November 18, 2010, at approximately 1:00 a.m., Robert Selbe telephoned Peter Runchey and asked whether Runchey wanted to “come help

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get some wire.” Runchey agreed, and the two men thereafter drove to an area near the Chicago Bridge and Iron Company (CBI). Runchey and Selbe exited the vehicle and proceeded down a hill into a wooded area near the chain-link fence that enclosed the CBI facility. Both men were wearing dark clothing, skull caps, and backpacks. Runchey carried wire cutters in his pack; Selbe had bolt cutters in his pack. A nearby resident observed Runchey and Selbe and, finding their actions suspicious, called 911.

Police arrived at the scene at 2:16 a.m. Officer Michael Braley, a police dog handler, attempted to enter the wooded area with his K-9; however, the area was marshland and the officers were uncertain of the depth of the water. As the officers began to revise their plans to search the area, they heard crashing sounds coming from the woods. The officers crouched down to wait.

At 2:47 a.m., Runchey and Selbe emerged from the woods. Officer Braley turned on his flashlight and ordered them to stop. Instead, the men dropped the items that they were carrying and fled back into the woods. Officer Braley located several large coils of copper wire that had been dropped by the two suspects. Four or five large coils of wire were collected, each weighing between 75 and 80 pounds.

Runchey was thereafter discovered hiding nearby and taken into custody.¹ Runchey was carrying a headband flashlight, wire cutters, a second flashlight, and a knife in his pack. Police also located a hole cut in CBI’s metal

¹ Selbe was also located and taken into custody.

chain-link fence near the area where Runchey had emerged from the woods.

Runchey denied that he was responsible for cutting the hole in the chain-link fence. He told officers that he had not entered the CBI property and that the coils of copper wire were already stacked outside the fence when he and Selbe arrived at the facility. When asked why he went out in the middle of the night, dressed in black, through a marsh to get the wire, Runchey replied, "I knew there was something not right about it."

Runchey was thereafter charged by amended information with one count of burglary in the second degree and one count of possession of stolen property in the second degree. The jury convicted Runchey as charged.

He appeals.

II

Runchey first contends that the State did not present sufficient evidence to prove the value of the copper wire, as required in order to support his conviction of possession of stolen property in the second degree. We disagree.

A challenge to the sufficiency of the evidence requires that we determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Brockob, 159 Wn.2d 311, 336, 150 P.3d 59 (2006). All reasonable inferences must be drawn in the prosecution's favor and interpreted most strongly against the defendant. State v.

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Hosier, 157 Wn.2d 1, 8, 133 P.3d 936 (2006). “A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.” State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

Moreover, “[c]ircumstantial evidence and direct evidence carry equal weight when reviewed by an appellate court.” State v. Goodman, 150 Wn.2d 774, 781, 83 P.3d 410 (2004).

Runchey is correct that value is an essential element of the crime of possession of stolen property in the second degree. State v. Morley, 119 Wn. App. 939, 942-43, 83 P.3d 1023 (2004). To prove that a person is guilty of this crime, the State must present evidence that the defendant stole property or services exceeding \$750 in value. RCW 9A.56.040(1)(a). “Value” refers to the market value of the property at the time and in the general area of the crime. Former RCW 9A.56.010(18)(a) (2006). Market value is an objective standard and consists of “the price which a well-informed buyer would pay to a well-informed seller, where neither is obliged to enter into the transaction.” State v. Kleist, 126 Wn.2d 432, 435, 895 P.2d 398 (1995) (quoting State v. Clark, 13 Wn. App. 782, 787, 537 P.2d 820 (1975)).

Market value need not be proved by direct evidence. State v. Hermann, 138 Wn. App. 596, 602, 158 P.3d 96 (2007). Rather, the jury may draw reasonable inferences from the evidence, including changes in the condition of the property that affect its value. State v. Melrose, 2 Wn. App. 824, 831, 470

P.2d 552 (1970). “[R]eplacement cost is a recognized factor to be considered in determining market value.”² State v. Hammond, 6 Wn. App. 459, 463, 493 P.2d 1249 (1972). Moreover, the owner of a chattel may testify to its market value without first being qualified as an expert. McCurdy v. Union Pac. R.R. Co., 68 Wn.2d 457, 468, 413 P.2d 617 (1966). “The owner of property is presumed to be familiar with its value by reason of inquiries, comparisons, purchases and sales.” Hammond, 6 Wn. App. at 461.

Here, Raymond Maw, the manager at CBI, testified that he had initially estimated the value of the stolen wire at \$1,000. However, Maw told the jury that the actual replacement cost for the copper wire was between \$2,200 and \$2,300. He further testified that copper wire sells for between three and four dollars per pound when sold as scrap. Each of the coils of wire recovered by the police from the scene weighed between 75 and 80 pounds.

Given this testimony, a rational jury could determine that the value of the wire taken was greater than \$750. Competent evidence of two different market values was presented. The market value of the copper wire for use in transmitting power was between \$2,200 and \$2,300.³ The scrap value of the

² Indeed, replacement value may be considered in lieu of market value if the property has no market value. See Clark, 13 Wn. App. at 788.

³ Runchey relies on Morley, 119 Wn. App. 939, for the proposition that replacement value can never serve as evidence of market value. However, in Morley, a case involving the theft of a used generator, there was evidence that the generator was purchased at less than retail price, was rented to customers, and had depreciated in value. 119 Wn. App. at 943. Given these facts, Division Three of this court determined that the replacement cost of a new generator was insufficient evidence of the stolen item’s actual market value. Here, however, the copper wire was used to power machines utilized by CBI in its business. There is no indication that the wire had depreciated in value due to this use. Indeed, photographs of the wire coils submitted to the jury indicate that the wire was in good condition. Under such circumstances, the

stolen wire was at least \$900 (four 75-pound coils at three dollars per pound). Accordingly, at a minimum, the market value of the stolen wire was proved to be \$900. There was sufficient evidence to support the jury's determination that Runchey possessed stolen property with a value exceeding \$750.⁴

II

Runchey next contends that the evidence adduced at trial was insufficient to prove that he unlawfully entered the CBI facility and that, accordingly, his conviction of burglary in the second degree must be reversed. Again, we disagree.

"A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building other than a vehicle or a dwelling." RCW 9A.52.030. Unlawfully entering a fenced area can support a conviction for burglary. State v. Engel, 166 Wn.2d 572, 580, 210 P.3d 1007 (2009). Moreover, as noted above, "[i]n determining the sufficiency of the evidence, circumstantial evidence is not to be considered any less reliable than direct evidence." State v. Delmarter, 94 Wn.2d 634, 638, 618

replacement value of property can serve as an accurate reflection of its market value.

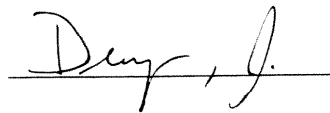
⁴ Runchey further contends that the State presented insufficient evidence for the finder of fact to determine that Runchey possessed the total amount of the wire that was recovered from the scene. He additionally notes that the State made no "attempt to differentiate between the wire recovered from Runchey and the wire recovered from Selbe." However, possession may be actual or constructive. State v. Plank, 46 Wn. App. 728, 731, 731 P.2d 1170 (1987). Moreover, in this case, the jury was properly instructed that "[a] person is legally accountable for the conduct of another person when he or she is an accomplice of such other person in the commission of the crime." Here, given the abundant evidence that Runchey engaged with Selbe in a common plan to take wire from CBI, and because the circumstances of his arrest give rise to an inference that the wire recovered from the scene was within his dominion and control, there was sufficient evidence of possession to support Runchey's conviction.

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P.2d 99 (1980).

Abundant circumstantial evidence was presented at trial tending to prove that Runchey entered the CBI premises. As of November 17, 2010, no wire was missing at CBI. On the night of November 18, police observed Runchey carrying several coils of copper wire away from the CBI facility. A hole in CBI's metal chain-link fence was discovered near the location from which Runchey appeared. Runchey was carrying tools for cutting wire. This wire was later identified as solid copper leads that had been cut from various machines at CBI. Although no witness observed Runchey actually cutting wire on CBI's property, such direct evidence is, of course, not required. Delmarter, 94 Wn.2d at 638. Because a rational jury could determine that Runchey had entered the CBI facility with the intent to commit crimes against property therein, the evidence was sufficient to support his conviction for burglary in the second degree.

Affirmed.

A handwritten signature in cursive script, appearing to read "Dery, J.", written over a horizontal line.

We concur:

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Cox, J.

Grosse, J