

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

ELISEO CAMPOS,

Appellant.

No. 41681-6-II

UNPUBLISHED OPINION

Armstrong J. — Eliseo Campos appeals his jury convictions for possession of a stolen motor vehicle and attempting to elude a pursuing police vehicle. Campos argues on appeal that the State presented insufficient evidence to prove he was the driver of a stolen vehicle. We affirm.

FACTS

Mike Burdorff borrowed his mother's Honda Accord to charge the dead battery in his Volvo. After hooking up jumper cables, Burdorff went inside his house. When he came back out, the Honda was missing. Burdorff immediately reported the theft, describing the vehicle to the police as a clean unmarked Honda Accord missing the front driver-side hubcap.

Deputy Jay Swanson received a dispatch broadcast of the stolen Honda and started following a vehicle that fit the description. Deputy Swanson made eye contact with the driver, identifying him as a Hispanic male with a shaved head and a dark blue shirt. After confirming that the vehicle had the license plates of the stolen vehicle, Deputy Swanson initiated a traffic stop by activating his lights. The vehicle accelerated and Deputy Swanson pursued, reaching speeds of 65 m.p.h. in a 35 m.p.h. speed zone. The chase ended on a dead end gravel road where the Honda

hit a rock pile.

After the Honda hit the rock pile, dust obscured Deputy Swanson's view. When he got to the Honda, the driver's door was open and the driver was gone. Deputy Swanson believed the suspect driver must have fled to a cone-shaped wooded area nearby. Deputy Swanson called for assistance securing the area.

Deputy Brian Brennan arrived within 10 minutes with a K-9. After Deputy Brennan twice announced his intent to search the area with a dog, Campos stood up in the wooded area and put his hands up. Campos was wearing a dark navy shirt and had a shaved head. At trial, Deputy Swanson identified Campos as the driver of the stolen Honda.

The jury convicted Campos of possession of a stolen motor vehicle, attempting to elude a pursuing police vehicle, and bail jumping.¹

ANALYSIS

I. Sufficiency of the Evidence

Campos argues that the State presented insufficient evidence that he was the driver of the stolen Honda. The State responds that Deputy Swanson's eyewitness testimony is sufficient evidence to prove Campos was driving the stolen vehicle.

We test the sufficiency of the evidence by asking whether, viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). We accept the truth of the State's evidence and all inferences that can reasonably be drawn from that evidence.

¹ Campos conceded at trial that he was guilty of the bail jumping charge.

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Salinas, 119 Wn.2d at 201. We defer to the trier of fact to resolve issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. *State v. Thomas*, 150 Wn.2d 821, 874-75, 83 P.3d 970 (2004) (citing *State v. Cord*, 103 Wn.2d 361, 367, 693 P.2d 81 (1985)).

RCW 9A.56.140(1) defines “[p]ossessing stolen property” as

knowingly 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.

The State must prove, therefore, that Campos (1) knowingly possessed a stolen motor vehicle, (2) knew the motor vehicle had been stolen, (3) withheld or appropriated the vehicle for use by someone other than the true owner, and (4) committed these acts in the State of Washington. *See* 11 Washington Pattern Jury Instructions: Criminal § 77.21 (3d ed. 2008).

RCW 46.61.024(1), defines attempting to elude a pursuing police vehicle as follows:

Any driver of a motor vehicle who willfully fails or refuses to immediately bring his or her vehicle to a stop and who drives his or her vehicle in a reckless manner while attempting to elude a pursuing police vehicle, after being given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a class C felony.

The only issue here is whether the State proved that Campos was driving the stolen Honda.²

The prosecution must prove beyond a reasonable doubt that the accused is the person who committed the charged offense. *State v. Hill*, 83 Wn.2d 558, 560, 520 P.2d 618 (1974). Identity is a question of fact for the jury. *Hill*, 83 Wn.2d at 560. The jury should evaluate all relevant

² Campos does not argue that he lawfully possessed the Honda or that whoever drove the Honda did not know it was stolen. Campos also does not contest that the driver of the Honda attempted to elude a pursuing police vehicle.

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facts that may establish the identity of the person who committed the offense. *Hill*, 83 Wn.2d at 560.

Deputy Swanson testified that he had a clear view of the driver of the Honda and described him as a Hispanic male with a shaved head wearing a blue shirt. Campos is a Hispanic male, had a shaved head at the time of his arrest, and was wearing a dark navy shirt. Deputy Swanson and Deputy Brennan found Campos near the location where the chase ended. Campos stood up in a group of trees where Deputy Swanson believed the Honda driver was hiding. Deputy Swanson positively identified Campos as the person he saw driving the Honda. This evidence was more than sufficient to prove that Campos was the driver of the Honda.

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Armstrong, J.

We concur:

Penoyar, C.J.

Van Deren, J.