2020 IL App (3d) 180697-U

Order filed December 4, 2020

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2020

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-18-0697
v.	)	Circuit No. 17-CF-1674
	)	
DARNELL C. LEE,	)	Honorable Daniel L. Kennedy,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Presiding Justice Lytton and Justice Holdridge concurred in the judgment.

ORDER

¶ 1 *Held*: Evidence presented at a discharge hearing was insufficient to prove defendant "not not guilty" of burglary and unlawful possession of a stolen vehicle beyond a reasonable doubt.

¶ 2 Defendant, Darnell C. Lee, appeals the Will County circuit court's finding, following a discharge hearing, that he was "not not guilty" of burglary and unlawful possession of a stolen vehicle. Defendant contends that there was insufficient evidence that the vehicle he drove away in was stolen. We reverse.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with burglary (720 ILCS 5/19-1(a), (b) (West 2016)) and unlawful possession of a stolen vehicle (625 ILCS 5/4-103(a)(1) (West 2016)). The complaint alleged that defendant committed the offense of burglary in that on or about August 17, 2017, defendant, without authority, knowingly entered a white GMC Yukon owned by John Lindsey Sr. with the intent to commit a theft therein. The complaint further alleged that on or about August 17, 2017, defendant committed the offense of unlawful possession of a stolen vehicle in that he possessed a white GMC Yukon with Illinois registration number V17F7928, knowing it to have been stolen and not being entitled to possession.

¶ 5 The circuit court ultimately found defendant unfit to stand trial and held a discharge hearing. 725 ILCS 5/104-25 (West 2016). At the hearing Lindsey Sr. testified that he owned a white GMC Yukon with Illinois registration number V17F7928 and that on or about August 17, 2017, he learned that it had been stolen. He further testified that on that day he did not have possession of the vehicle, but his son did. Lindsey Sr.'s son was the only person he gave permission to have the vehicle. Lindsey Sr. lived in Joliet.

¶ 6 Abdelrahma Karakra testified that he owned a grocery store in Joliet and was working at his store on August 17, 2017. On that day, he saw a white GMC Yukon pull up to the store and the driver entered the store. He then saw defendant enter the white GMC Yukon and drive away. Thereafter, the police were called.

¶ 7 The court found defendant "not not guilty" and remanded him to the Department of Human Services' custody. Defendant filed a motion for a new discharge hearing, or, in the alternative, to reconsider the finding of "not not guilty" arguing that there was insufficient evidence. The court denied the motion, and defendant appeals.

¶ 8 II. ANALYSIS

¶ 9 Defendant argues that the State failed to present sufficient evidence to establish his guilt of burglary and unlawful possession of a stolen vehicle beyond a reasonable doubt because there was no evidence presented that the vehicle defendant drove away in was stolen. We agree.

¶ 10 A discharge hearing takes place after a defendant is found unfit to stand trial, and it determines whether to enter a judgment of acquittal, not to make a finding of guilt. *People v. Mayo*, 2017 IL App (2d) 150390, ¶ 3. Like a criminal proceeding, the State bears the burden of presenting sufficient evidence to establish the defendant's guilt beyond a reasonable doubt. *Id.* If the State presents sufficient evidence, the defendant is found "not not guilty." *Id.* We review the circuit court's judgment to determine whether the evidence, when viewed in the light most favorable to the State, would permit any rational trier of fact to find that the State proved the elements of the offenses beyond a reasonable doubt. *People v. Peterson*, 404 Ill. App. 3d 145, 150 (2010).

¶ 11 In order to obtain a finding of "not not guilty" as to burglary, the State needed to prove beyond a reasonable doubt that defendant, without authority, knowingly entered the white GMC Yukon with the intent to commit therein a felony or theft. 720 ILCS 5/19-1(a) (West 2016). As to the unlawful possession of a stolen vehicle charge, the State needed to prove defendant was not entitled to possess the white GMC Yukon and that he possessed it, knowing it was stolen. 625 ILCS 5/4-103(a)(1) (West 2016).

¶ 12 Here, the State failed to present any evidence as to who owned the white GMC Yukon that defendant entered and drove away in. Notably, Karakra did not testify as to the identity of the first driver of that GMC Yukon and the State did not present any evidence as to the registration number of that vehicle. The State further failed to present any evidence regarding defendant's authority, or lack thereof, to enter or possess the vehicle. And we cannot, as the State contends, infer from the

evidence presented that defendant stole the white GMC Yukon he entered. The testimony that Lindsey Sr. lived in Joliet and his white GMC Yukon was stolen does not prove that the white GMC Yukon defendant entered outside of the grocery store belonged to him. From this record, such a determination would be impermissible conjecture and speculation because the State presented no evidence to support its claim that the GMC owned by Lindsey Sr. was the same GMC Yukon defendant drove away in. See *People v. Laubscher*, 183 Ill. 2d 330, 336 (1998) (stating that "the State may not leave to conjecture or assumption essential elements of the crime"); *People v. Escort*, 2017 IL App (1st) 151247, ¶ 21 (stating that "guilt may not rest on speculation"). While the facts that defendant entered and drove away in a white GMC Yukon after another individual had driven it to the store make it probable that defendant did not have authority to take the vehicle, "the fact that defendant is 'probably' guilty does not equate with guilt beyond a reasonable doubt." *People v. Ehlert*, 211 Ill. 2d 192, 213 (2004).

¶ 13 The State admits that evidence of burglary and unlawful possession was not "conclusive[ ]" but argues that "[t]he simple act of getting police involved provides significant circumstantial evidence that defendant was not permitted to do what he did." Surely, the reasonable doubt standard holds the State to a higher burden of proof than merely providing circumstantial evidence of police *involvement* to establish a defendant's guilt. See *In re Winship*, 397 U.S. 358, 364 (1970) ("It is critical that the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent [individuals] are being condemned."). As noted, the record indicates that the police were involved; the record also indicates that a police report was generated. The simple act of presenting the police report and the officer who completed the report at the discharge hearing would have provided sufficient evidence to prove defendant "not not guilty" of burglary and unlawful possession of a stolen vehicle.

¶ 14 Based on the foregoing reasons, no rational trier of fact could find that the State proved beyond a reasonable doubt that the white GMC Yukon defendant entered was stolen, or that he entered it without authority or a right to possess it. Thus, no rational trier of fact could find that the State proved the elements of burglary or unlawful possession of a stolen vehicle beyond a reasonable doubt. Therefore, the State failed to prove defendant "not not guilty."

¶ 15 III. CONCLUSION

¶ 16 We reverse the circuit court's finding of "not not guilty" and acquit defendant of burglary and unlawful possession of a stolen vehicle.

¶ 17 Reversed.

¶ 18 Judgment of acquittal entered.