IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs April 23, 2002

STATE OF TENNESSEE v. DOUGLAS A. MATHIS

Direct Appeal from the Criminal Court for Sullivan County
No. S43,574 Phyllis H. Miller, Judge

No. E2001-02042-CCA-R3-CD
May 29, 2002

A Sullivan County jury convicted the defendant of theft over $1,000 for stealing a car. On appeal, he argues the evidence was insufficient to support his conviction. We affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

JOE G. RILEY, J., delivered the opinion of the court, in which JERRY L. SMITH and THOMAS T. WOODALL, JJ., joined.

Stephen M. Wallace, District Public Defender; and Richard A. Tate, Assistant District Public Defender, for the appellant, Douglas A. Mathis.

Paul G. Summers, Attorney General and Reporter; Angele M. Gregory, Assistant Attorney General; H. Greeley Wells, Jr., District Attorney General; and J. Lewis Combs, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

On Friday, April 30, 1999, victim Tommy Johnson and his wife, Toya Johnson, took his 1986 Chevrolet Monte Carlo Super Sport to an automobile auction in Abingdon, Virginia, where they tried unsuccessfully to sell the vehicle. The Johnsons testified that as they prepared to leave the auction, the defendant approached them and indicated he was interested in the vehicle. Tommy Johnson said he showed the defendant the vehicle's title, which he had previously signed. Toya Johnson testified her husband returned the vehicle's title to the glove compartment after showing it to the defendant. Defendant asked to test drive the vehicle. The Johnsons accompanied the defendant and allowed him to drive the vehicle back toward their home in Johnson City, Tennessee. Defendant's friend followed them in another vehicle.

Toya Johnson became ill, and the defendant stopped at a restaurant near Kingsport, Tennessee. The Johnsons said that after they exited the vehicle, the defendant drove away and was followed by defendant's friend in the other vehicle. The Johnsons testified the defendant had not agreed to buy the vehicle, did not pay for the vehicle, and did not have permission to take the vehicle.

Roger Cole, an employee of the Kentucky Auto Exchange, an automobile auction company in London, Kentucky, testified his company sold the victim's vehicle on May 4, 1999, and wrote a check payable to "Tommy Johnson" for $2,465; Cole identified the cancelled check. Cole explained the company made the check payable to Johnson because he was listed as the owner on the vehicle's title. Cole said he did not know who actually sold the vehicle at the auction. Tommy Johnson testified he did not go to the Kentucky Auto Exchange to sell the Monte Carlo, and no one had permission to sell his vehicle. He stated he did not receive the proceeds from the sale of the vehicle.

Charles Arrington testified that in early May of 1999, the defendant showed him a Monte Carlo Super Sport and asked him to buy it. Arrington declined to purchase the vehicle. At trial, Arrington was shown a photograph of Johnson's vehicle and stated the vehicle the defendant had appeared to be the same vehicle. A few days later, on May 5, 1999, he helped the defendant and another man cash a check at Arrington's credit union. Arrington identified the check as being the Kentucky Auto Exchange's check for the sale of the victim's vehicle. Arrington said he signed the back of the check, and the credit union gave the defendant the money. Arrington testified the defendant paid him $150 he owed him on another vehicle defendant had previously purchased from Arrington. The defendant kept the rest of the money.

The defense presented no proof at trial. The jury convicted the defendant of theft over $1,000.

ANALYSIS

The defendant contends this evidence was insufficient to support his conviction. When evidentiary sufficiency is questioned, our standard of review is, after considering all the evidence in the light most favorable to the state, whether any rational trier of fact could have found all the essential elements of the offense beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979); State v. Hall, 8 S.W.3d 593, 599 (Tenn. 1999); Tenn. R. App. P. 13(e). We do not reweigh the evidence or substitute our own inferences for those drawn by the trier of fact. State v. Pierce, 23 S.W.3d 289, 293 (Tenn. 2000). Instead, the state is entitled to the strongest legitimate view of the evidence and to all reasonable and legitimate inferences that may be drawn therefrom. Hall, 8 S.W.3d at 599.

A person who knowingly obtains or exercises control over property without the owner's effective consent with the intent to deprive the owner of the property commits theft. Tenn. Code

Ann. § 39-14-103. A theft of property having a value of at least $1,000, but less than $10,000, is a Class D felony. Tenn. Code Ann. § 39-14-105(3).

In this case, the victim and his wife testified the defendant drove away in the victim's vehicle without permission. The proof showed the defendant attempted to sell the vehicle to Charles Arrington shortly after he took it. Further, the state established the vehicle was sold a few days later, and the defendant, not the victim, received the sale proceeds. We conclude there is ample support for the defendant's conviction for theft of property valued at $1,000 or more.

Accordingly, we affirm the judgment of the trial court.

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JOE G. RILEY, JUDGE