

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs February 14, 2023

FILED
03/02/2023
Clerk of the
Appellate Courts

STATE OF TENNESSEE v. CRYSTAL ANN MICHAEL

**Appeal from the Circuit Court for Coffee County
No. 45,498M Vanessa Jackson, Judge**

No. M2022-00580-CCA-R3-CD

The defendant, Crystal Ann Michael, was convicted by a Coffee County jury of theft of property under \$1,000, a Class A misdemeanor, and sentenced to sixty days in jail. On appeal, the defendant argues the evidence is insufficient to sustain her conviction. After review, we affirm the judgment of the trial court.

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

J. ROSS DYER, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and TOM GREENHOLTZ, JJ., joined.

M. Todd Ridley, Assistant Public Defender, Tennessee Public Defenders Conference, Franklin, Tennessee (on appeal); Willis C. McKee, Assistant Public Defender, Manchester, Tennessee (at trial), for the appellant, Crystal Ann Michael.

Jonathan Skrmetti, Attorney General and Reporter; Courtney N. Orr, Assistant Attorney General; Craig Northcott, District Attorney General; and Joshua C. Powell, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Facts and Procedural History

The defendant was indicted for theft of property under \$1,000 based on proof she stole a pair of shoes from the Shoe Sensation store in Tullahoma, Tennessee, in April 2018.

At trial, Lisa Beechum testified that she was the backup assistant manager at Shoe Sensation at the time of the incident and that on the evening of April 18, 2018, she was working with Gracie Ayers, a part-time employee. To prepare the store for its 9:00 p.m. closing, Ms. Beechum and Ms. Ayers cleaned the store and conducted an inventory by

systematically shaking every shoebox to ensure that no boxes were empty. Ms. Beechum elaborated that the store had some issues with shoplifting and that they would find empty boxes from time to time. When Ms. Beechum and Ms. Ayers checked the shoeboxes that night, none were empty.

Just before closing, two individuals entered the store, one of which Ms. Beechum identified as the defendant. The defendant was carrying a large tote bag that appeared to be empty. The other individual was a male who identified himself as "A.J." at some point during their subsequent interaction. Ms. Beechum was standing at the cash register when the individuals entered and started looking at shoes. The couple walked to the Nike section, and the defendant grabbed a box of shoes and tucked the box under her arm. Ms. Beechum noted the couple "didn't want any kind of help. They didn't want me or [Ms. Ayers] around them. They didn't want any kind of customer service." Ms. Beechum testified, "It was a little strange. [The defendant] would walk around, all around the store, and [the man] kind of stayed [in another part] of the store."

The defendant walked around the store with the box wedged under her arm and then walked towards the back of the store and crouched down. Meanwhile, Ms. Ayers was talking to A.J. in another part of the store. Ms. Beechum kept an eye on the defendant and saw her put "[s]omething big and bulky" in her tote bag. Ms. Beechum secured the cash register so she could confront the defendant but "that's when a lot of problems started happening in the store." According to Ms. Beechum, the defendant started cussing at her male companion for talking to another woman and then "slung the shoebox . . . [and] jolted out the door." Ms. Beechum tried to stop the defendant because she could tell the defendant's tote bag "was full. It was big and puffy. . . . [H]er bag had a lot of stuff in it." However, the defendant cussed at Ms. Beechum and kept going. A.J. exited the store after the defendant.

Ms. Beechum followed A.J. outside and saw him in a vehicle, while the defendant walked off in the opposite direction. Ms. Beechum noted the license plate number on the vehicle, and Ms. Ayers called the police to report the theft. A.J. circled the parking lot in his vehicle, presumably looking for the defendant, until the police arrived. When Ms. Beechum returned to the store, she observed that the shoebox the defendant had thrown was empty. The shoes were never located inside the store. Ms. Beechum testified that their Nike shoes were priced from \$129 to \$169.

Ms. Beechum acknowledged that she was not very tall but explained she could see over the shelves "[f]or the most part" and also was able to see the defendant in the back of the store because there were mirrors positioned in the corners. Ms. Beechum reiterated that she saw the defendant "in the back of the store putting something in her bag."

Investigator Johnny Gore with the Tullahoma Police Department was assigned to the case. Investigator Gore ran the license plate number provided by Ms. Beechum and learned the vehicle was registered to the defendant. Investigator Gore identified photographs of the interior of the store, which showed the layout of the store and a number of mirrors positioned throughout. Investigator Gore attempted to speak to Andrew James Michael, the defendant's husband, in the course of his investigation but Mr. Michael was not cooperative.

On cross-examination, Investigator Gore acknowledged he did not receive an invoice from the store for stolen shoes or a copy of the inventory that Ms. Beechum completed before the alleged theft, but he clarified it was not typical for law enforcement to receive such documentation. Investigator Gore elaborated that if the store provided a receipt showing proof of a stolen item's value, the value would be noted in the officer's report but the receipt would not be kept. Investigator Gore said that to his knowledge, the empty shoebox was not taken into police custody and the typical procedure was not for the police to collect such evidence.

Following the conclusion of the proof, the jury convicted the defendant as charged, and the trial court later imposed a sentence of sixty days in jail.

Analysis

On appeal, the defendant argues the evidence is insufficient to sustain her conviction, asserting that “[e]ven in the light most favorable to the State, the proof at trial established very little.” The defendant concedes the proof established she was in the store and had a confrontation with the store manager but asserts “the remaining proof was vague and speculative.” The State submits the evidence is sufficient. We agree with the State.

When the sufficiency of the evidence is challenged, the relevant question of the reviewing court is “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.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also* Tenn. R. App. P. 13(e) (“Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the finding by the trier of fact of guilt beyond a reasonable doubt.”); *State v. Evans*, 838 S.W.2d 185, 190-91 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *State v. Pappas*, 754 S.W.2d 620, 623 (Tenn. Crim. App. 1987). “A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of

the State.” *State v. Grace*, 493 S.W.2d 474, 476 (Tenn. 1973). Our Supreme Court has stated the rationale for this rule:

This well-settled rule rests on a sound foundation. The trial judge and the jury see the witnesses face to face, hear their testimony and observe their demeanor on the stand. Thus the trial judge and jury are the primary instrumentality of justice to determine the weight and credibility to be given to the testimony of witnesses. In the trial forum alone is there human atmosphere and the totality of the evidence cannot be reproduced with a written record in this Court.

Bolin v. State, 405 S.W.2d 768, 771 (Tenn. 1966) (citing *Carroll v. State*, 370 S.W.2d 523 (1963)). “A jury conviction removes the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient.” *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

Guilt may be found beyond a reasonable doubt where there is direct evidence, circumstantial evidence, or a combination of the two. *State v. Matthews*, 805 S.W.2d 776, 779 (Tenn. Crim. App. 1990) (citing *State v. Brown*, 551 S.W.2d 329, 331 (Tenn. 1977); *Farmer v. State*, 343 S.W.2d 895, 897 (Tenn. 1961)). The standard of review for sufficiency of the evidence “is the same whether the conviction is based upon direct or circumstantial evidence.” *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)). The jury as the trier of fact must evaluate the credibility of the witnesses, determine the weight given to witnesses’ testimony, and reconcile all conflicts in the evidence. *State v. Campbell*, 245 S.W.3d 331, 335 (Tenn. 2008) (citing *Byrge v. State*, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978)). Moreover, the jury determines the weight to be given to circumstantial evidence and the inferences to be drawn from this evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence are questions primarily for the jury. *Dorantes*, 331 S.W.3d at 379 (citing *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006)). This Court, when considering the sufficiency of the evidence, shall not reweigh the evidence or substitute its inferences for those drawn by the trier of fact. *Id.*

“A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner’s effective consent.” Tenn. Code Ann. § 39-14-103(a). Theft of property valued at \$1,000 or less is a Class A misdemeanor. *Id.* § 39-14-105(a)(1).

In the light most favorable to the State, there was sufficient proof presented at trial from which a rational trier of fact could find that the defendant stole a pair of Nike shoes

from Shoe Sensation. The evidence shows that the store employees conducted their nightly closing routine, which included systematically shaking every shoebox on display to ensure none were empty. It was after this process had been completed that the defendant and her male companion entered the store. The defendant was carrying a large tote bag that appeared to be empty, and the two consistently declined assistance and behaved in a strange manner. The store manager, Ms. Beechum, saw the defendant pick up a box of Nike shoes and tuck the box under her arm. She then watched the defendant walk to the back of the store with the box wedged under her arm, crouch down and put “[s]omething big and bulky” in her tote bag. The defendant returned to the front of the store where she caused a disturbance by cursing and throwing an empty shoebox at her companion. The defendant “jolted” out the door, and Ms. Beechum tried to stop her because she noticed the defendant’s tote bag “was full. It was big and puffy. . . . [H]er bag had a lot of stuff in it.” The defendant cursed at Ms. Beechum and kept going. Ms. Beechum discovered that the shoebox thrown by the defendant was empty. The shoes that belonged in the empty box were never found in the store. Ms. Beechum testified that the missing shoes were a pair of red and white Nikes that would have sold between \$129 to \$169. As its province, the jury determined Ms. Beechum’s testimony to be credible and that the circumstances presented were consistent with the defendant’s guilt. The defendant is not entitled to relief.

Conclusion

Based on the foregoing authorities and reasoning, we affirm the judgment of the trial court.

J. ROSS DYER, JUDGE