



Patterson v. State

2005 | Cited 0 times | Court of Appeals of Arkansas | January 5, 2005

NOT DESIGNATED FOR PUBLICATION

David Lee Patterson was convicted of residential burglary and theft of property in a bench trial, and was sentenced to ten years' imprisonment in the Arkansas Department of Correction. On appeal, Patterson challenges the sufficiency of the evidence to support both convictions. We affirm.

Little Rock police officers were called to a burglary in progress on the afternoon of May 14, 2003. Officer Archie Adcock responded and stopped a truck nearby that was described as leaving the scene of the burglary. The truck contained three occupants, one of whom was Patterson. The back of the truck contained numerous items, such as guns and VCRs, covered by a bedspread. The resident of the home that was burglarized, Michael Value, was called to the scene and identified the items in the truck as his property. Value testified that when he arrived at his home after receiving the call about the burglary, he found his carport door kicked in and his house ransacked, with property strewn about. He placed the value of the property taken from his home at \$20,000. Joyce Pruitt, Value's neighbor, testified that she saw the truck backed into Value's carport that morning, and she identified Patterson as one of two persons whom she saw going in and out of the house and placing items in the back of the truck. Pruitt testified that she dialed 911 and reported the burglary. Officer Frank Ghegan testified that he investigated the burglary and took a statement from Patterson, in which he claimed that the other two suspects had asked him to help them move some furniture from a house. Ghegan stated that Patterson said that he thought that something was wrong but just went ahead with the job and that Patterson claimed that the door of the house was unlocked and had not been kicked in. At the close of the State's case, Patterson moved for directed verdict, and the trial court denied the motion.

Patterson testified in his own behalf. He testified that he had been approached by Curtis Hill and Hill's cousin and asked by them to help move a refrigerator and other items on the day in question. He stated that he noticed some broken glass on the floor of the house and a broken screen door, but that it appeared as if the occupants were in the process of moving so he went ahead and placed some items in the truck as instructed by Hill. Patterson admitted that he continued to carry items out of the home even though he suspected that something might be wrong. At the conclusion of Patterson's testimony the defense rested. Patterson's counsel renewed his motion for directed verdict.

The trial court denied the motion and found Patterson guilty of residential burglary and felony theft of property and sentenced him to ten years' imprisonment on each count, to run concurrently.



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On appeal, Patterson argues that the trial court erred in denying his motion for directed verdict with regard to residential burglary because there was no evidence that he broke into the residence with the intent to commit a felony. With regard to the conviction for theft, Patterson contends that there was no evidence that he knowingly took or exercised control over the property with the purpose of depriving the owner of it.

Motions for directed verdict are treated as challenges to the sufficiency of the evidence. *Bailey v. State*, 334 Ark. 43, 972 S.W.2d 239 (1998); *Turner v. State*, 64 Ark. App. 216, 64 Ark. App. 216 (1998). When a defendant challenges the sufficiency of the evidence convicting him, the evidence is viewed in the light most favorable to the State. *Id.* Evidence is sufficient to support a conviction if the trier of fact can reach a conclusion without having to resort to speculation or conjecture. *Id.* Substantial evidence is that which is forceful enough to compel reasonable minds to reach a conclusion one way or the other. Only evidence supporting the verdict will be considered.

Patterson was convicted of residential burglary and theft of property. Residential burglary is committed when a person "enters or remains unlawfully in a residential occupiable structure of another person with the purpose of committing therein any offense punishable by imprisonment." Ark. Code Ann. § 5-39-201(a)(1) (Repl. 1997). Theft of property is committed when a person "knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another person, with the purpose of depriving the owner thereof." Ark. Code Ann. § 5-36-103(a)(1) (Repl. 1997). Patterson argued in his motion for a directed verdict that the State had failed to prove that he entered the house with the purpose of committing a theft and that the State had failed to prove that he knowingly took the property of another with the purpose of depriving the owner thereof.

The trier of fact must find that the defendant had the purpose to commit a particular offense. *Forgy v. State*, 302 Ark. 435, 790 S.W.2d 173 (1990). Such a purpose may be shown by circumstantial evidence, if any existed, however, the evidence must be consistent with the guilt of the defendant and inconsistent with any other reasonable conclusion. *Cassell v. State*, 273 Ark. 59, 616 S.W.2d 485 (1981). Criminal intent cannot be presumed from the mere showing of illegal entry. *Forgy*, *supra*; *Norton v. State*, 271 Ark. 451, 609 S.W.2d 1 (1980). Indeed, intent can rarely be proved by direct evidence, but may be inferred from the circumstances of the crime, and the trier of fact may draw upon common knowledge and experience to infer intent. See *Smith v. State*, 65 Ark. App. 216, 986 S.W.2d 137 (1999). Moreover, the existence of criminal intent or purpose is a question of fact to be determined by the trier of fact when criminal intent may be reasonably inferred from the evidence. *Id.* The trier of fact resolves any conflicts in testimony and determines the credibility of the witnesses, and its conclusion on credibility is binding on the appellate court. *Kendrick v. State*, 37 Ark. App. 95, 823 S.W.2d 931 (1992). Here, the circumstances surrounding the crime provide substantial evidence from which the fact-finder could reasonably conclude that Patterson intended to commit residential burglary and theft. *Pond v. State*, 69 Ark. App. 346, 14 S.W.3d 525 (2000).



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In considering the evidence in the light most favorable to the State, *Williams v. State*, 304 Ark. 509, 804 S.W.2d 346 (1991), we hold substantial evidence exists to support the verdict finding Patterson guilty of burglary and theft of property. Clearly, the State's case placed Patterson unlawfully entering the victim's house, removing property from the house, and placing it in the truck to be transported away. Although Patterson offered his own explanation as to how he came to be involved in the incident, the trial court, as the finder of fact, was not obligated to believe him, as he was the person most interested in the outcome of the case. *Rankin v. State*, 338 Ark. 723, 1 S.W.3d 14 (1999). We hold that substantial evidence supports appellant's convictions.

Affirmed.

Pittman, C.J., and Crabtree, J., agree.

