

Case Summary

Arthur Lott appeals his conviction for burglary as a Class C felony. We affirm.

Issue

Lott raises one issue, which we restate as whether the evidence is sufficient to sustain his conviction.

Facts

On March 9, 2010, in Fort Wayne, Christopher Wampole got up early to go to work and took his dog outside. The dog was acting strangely, and Wampole heard “clinking noises, like metal on metal” coming from the vacant residence next door. Tr. p. 104. Wampole then saw a light in the basement window of the vacant house and called the police. When the police arrived a few minutes later, they also heard sounds of metal hitting metal coming from the vacant residence. One of the officers approached the rear door of the house, heard someone walking up the stairs from the residence’s basement, and saw Lott walk out of the residence’s back door. Lott was dressed in black and had a ski mask. Lott’s clothing was wet and stained with something red.

In the basement, the officers found a large shears and a duffle bag filled with metal pipes. The basement’s piping appeared to have been freshly cut. The residence’s back door had a splintered frame and a damaged door knob. The officers saw reddish stains in the basement. Lott told the officers that he did not have permission to be in the house, that he had slept in it, and that he did not cut the pipes.

The State charged Lott with Class C felony burglary. At his jury trial, Lott testified that the door to the residence was already broken when he went into the house to

sleep, that he did not cut the pipes, and that the red stains on his pants were power steering fluid. The jury found Lott guilty as charged, and the trial court sentenced him to six years in the Department of Correction with two years suspended. Lott now appeals.

Analysis

Lott claims that the evidence is insufficient to sustain his conviction for Class C felony burglary. When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. Bailey v. State, 907 N.E.2d 1003, 1005 (Ind. 2009). “We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence.” Id. We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. Id.

The offense of burglary is governed by Indiana Code Section 35-43-2-1, which provides: “A person who breaks and enters the building or structure of another person, with intent to commit a felony in it, commits burglary, a Class C felony.” The State alleged that Lott “did knowingly or intentionally break and enter the building or structure of another person, to wit: U.S. Bank, Inc.; with the intent to commit a felony therein, to wit: theft.” App. p. 10.

Lott’s sole argument is the State failed to prove beyond a reasonable doubt that he gained access to the property by breaking and entering rather than “simply walking through an already opened door.” Appellant’s Br. p. 6. The “breaking” element may be proven entirely by circumstantial evidence. Wadsworth v. State, 750 N.E.2d 774, 777

(Ind. 2001). The State presented evidence that, shortly after a neighbor heard the clinking of metal on metal coming from the vacant house, Lott was apprehended leaving the broken rear door of the residence. Lott's clothes were wet and stained with a red substance. In the basement, officers found cut piping, large shears, and red stains. Despite Lott's denials, from the evidence presented, the jury could have reasonably inferred that Lott broke the door. We conclude that the evidence is sufficient to demonstrate that Lott did break and enter the vacant residence with the intent to commit theft.

Conclusion

The evidence is sufficient to sustain Lott's conviction for Class C felony burglary.

We affirm.

Affirmed.

BAKER, J., and VAIDIK, J., concur.