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ATTORNEY FOR APPELLANT:

LAWRENCE M. HANSEN
Hansen Law Firm, LLC
Noblesville, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

KARL M. SCHARNBERG
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

AARON SHIELDS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 29A04-1009-CR-558
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HAMILTON SUPERIOR COURT
The Honorable Daniel J. Pfleging, Judge
Cause No. 29D02-0707-FC-78

June 24, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Aaron Shields appeals his conviction for Class C felony forgery. We affirm.

Issues

Shields raises two issues, which we restate as:

I. whether the trial court abused its discretion by admitting a copy of the vehicle's certificate of title; and

II. whether the evidence is sufficient to sustain Shields's conviction.

Facts

In 2007, Timothy Clawson was living in his car, a 1990 Honda Prelude, and occasionally with friends. Clawson's belongings were in the car, and the unsigned title was in the glove box. The driver's side rear window was covered with plexiglass and sealed with silicone.

On February 2, 2007, Clawson met Josh Colyer and his wife at a bar in Noblesville. Clawson also knew Shields from the bar, but he did not see him that evening. When Clawson left the bar, he was stopped by the police, and he was arrested for operating a vehicle while intoxicated. Clawson locked his car but left the keys underneath the driver's seat. His car was legally parked on Maple Street in Noblesville, but parking is restricted on that street to two hours on Monday through Friday from 8:00 a.m. to 4:00 p.m.

While Clawson was in jail, he called Colyer and asked Colyer to move his vehicle to a safe location and "secure his property." Tr. p. 100. Colyer had recently had surgery

and was not able to look for the vehicle until around February 14, 2007. Colyer found the vehicle parked behind Shields's mother's house on Maple Street. The plexiglass had been "busted out," and Colyer found the keys and locked the car. Id. at 102.

On February 21, 2007, Shields sold Clawson's vehicle to Bannon and Son Wrecking for sixty dollars. Shields told Bruce Bannon that the vehicle belonged to him, that it was junk, and that he did not want it. Shields said that he had lost the keys to the vehicle. Shields gave the title to Bannon, and it contained a signature of "Timothy Clawson" on the seller's affirmation section of the title. Exhibits 2, 3, 4, & 7.

In the beginning of March 2007, Colyer returned to Shields's mother's house, but the vehicle was gone. Colyer knocked on the door to the house, and a man told Colyer that he needed to talk with Shields. Colyer called Shields, who said that he did not know where the vehicle was, and that "was the end of the conversation. Click." Tr. p. 103. Colyer eventually found the vehicle at Bannon's towing yard, talked to Bannon, and gave keys to the vehicle to Bannon. Colyer talked with Clawson and told him that he needed to file a police report. Shields claimed to officers that the certificate of title had been signed by Clawson and that he could legally sell the vehicle.

The State charged Shields with Class C felony fraud and Class D felony auto theft. At the jury trial, the State moved to admit Exhibit 2, which is a photocopy of the signed certificate of title, and Exhibit 3, which is a photocopy enlargement of the signature line. Shields objected to the admission of the two exhibits because they were "not certified copies of the documents under the best evidence rule and in addition under the best evidence rule the original needs to be produced," and the trial court overruled Shields's

objection. Id. at 26. Clawson testified that he did not sign the certificate of title, that he did not talk to Shields about moving his car, that he did not give Shields authority to take control of his car, and that the car was sold without his permission or authorization. The jury found Shields guilty of Class C felony forgery but not guilty of Class D felony auto theft. The trial court sentenced Shields to four years suspended with two years of probation

Analysis

I. Admission of Evidence

Shields argues that the trial court abused its discretion by admitting a copy of the vehicle's certificate of title. The decision to admit or exclude evidence is within a trial court's sound discretion and is afforded great deference on appeal. Carpenter v. State, 786 N.E.2d 696, 702 (Ind. 2003). An abuse of discretion in this context occurs where the trial court's decision is clearly against the logic and effect of the facts and circumstances before the court or it misinterprets the law. Id. at 703.

Shields argues that the trial court abused its discretion by admitting Exhibit 2, a photocopy of the signed certificate of title, and Exhibit 3, a photocopy enlargement of the signature line. Shields objected to the admission of the two exhibits because they were "not certified copies of the documents under the best evidence rule and in addition under the best evidence rule the original needs to be produced." Tr. p. 26. On appeal, Shields argues that the exhibits were not properly authenticated and violated the best evidence rule.

We need not address Shields's specific arguments because any error in the admission of the exhibits was harmless. An error is not reversible unless it affects the substantial rights of a party. Jester v. State, 724 N.E.2d 235, 240 (Ind. 2000). Erroneously admitted evidence that is merely cumulative of other evidence in the record is harmless and is not grounds for reversal. Bryant v. State, 802 N.E.2d 486, 494 (Ind. Ct. App. 2004), trans. denied.

Shields complains about the admission of a copy of the certificate of title in Exhibit 2 and Exhibit 3. However, copies of the certificate of title were also admitted as Exhibit 4 and Exhibit 7.[1] Exhibit 2 and Exhibit 3 are merely cumulative of other evidence properly admitted. Because the evidence was cumulative, it is not grounds for reversal.

II. Sufficiency of the Evidence

Next, Shields argues that the evidence is insufficient to sustain his conviction for Class C felony forgery. 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

[1] The State moved to admit Exhibit 4 and Exhibit 7, and an unrecorded conference was held at the bench. During closing arguments, both the State and Shields's counsel referred to and discussed Exhibit 4 and Exhibit 7. It is clear from the transcript that the trial court admitted both exhibits. On appeal, Shields makes no argument regarding Exhibit 4 or Exhibit 7.

a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. Id.

Class C felony forgery is governed by Indiana Code Section 35-43-5-2(b), which provides: "A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made . . . (4) by authority of one who did not give authority; commits forgery, a Class C felony." The State alleged that Shields, "with the intent to defraud, did possess a written instrument, to-wit: an automobile title; in such a manner that it purports to have been made by authority of Timothy P. Clawson, who did not give his authority." Appellant's App. p. 7.

On appeal, Shields claims that the evidence was insufficient to show that he intended to defraud Clawson. Shields concedes that he possessed and presented the title to Bannon. Clawson testified that he did not sign the certificate of title, that he did not talk to Shields about moving his car, that he did not give Shields authority to take control of his car, and that the car was sold without his permission or authorization. Shields argues that Clawson intended to sell his vehicle, that Colyer would not sell it without a proper power of attorney, and that Clawson "asked and authorized someone else, i.e. Shields, to get rid of the car." Appellant's Br. pp. 10-11. Shields's argument is merely a request that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do. The State presented evidence that Shields, with intent to defraud, possessed a signed certificate of title in such a manner that it purported to have been made by authority of Clawson and that Clawson did not give authority. It was for the jury to decide the credibility issues. The evidence is sufficient to sustain Shields's conviction.

Conclusion

Any error in the admission of Exhibit 2 and Exhibit 3 was harmless. Further, the evidence is sufficient to sustain Shields's conviction for Class C felony forgery. We affirm.

Affirmed.

RILEY, J., and DARDEN, J., concur.