

Appellant/Defendant Christopher Brightman appeals his convictions for Class D felony Receiving Stolen Property¹ and Class D felony Theft.² Specifically, Brightman contends that the evidence is insufficient to support his convictions. We affirm.

FACTS AND PROCEDURAL HISTORY

Sheri Morgan lived with Patsy Coleman from the middle of January 2010 to June 1, 2010, during which time Morgan acted as a caretaker for Coleman. Brightman, who had dated Morgan for several years, lived with Morgan and Coleman during May of 2010. During this period, Coleman owned a Nissan. Neither Brightman nor Morgan owned a vehicle. Coleman often loaned her Nissan to Morgan for short periods of time, lasting no longer than four or five hours.

On June 1, 2010, Coleman loaned her Nissan to Morgan for a couple of hours so Morgan could visit her daughter. Morgan, however, never returned to Coleman's home or returned her Nissan. When Morgan failed to return the Nissan in a timely fashion, Coleman called Morgan numerous times on a cellular phone belonging to Brightman. The next day, Coleman reported her Nissan stolen.

On July 2, 2010, Brightman drove himself and Morgan to the Wal-Mart located in New Albany in the Nissan that belonged to Coleman. Before entering the store, Brightman and Morgan discussed taking meat from Wal-Mart. Brightman entered the store, pushed a shopping cart to the meat department, placed several packages of meat in the shopping cart,

¹ Ind. Code § 35-43-4-2.5(c) (2010).

² Ind. Code § 35-43-4-2(a) (2010).

and pushed the shopping cart to the frozen food aisle where he met Morgan. Morgan placed the meat in her purse, and both left the frozen food aisle separately. As Morgan was exiting the frozen food aisle, Miranda Minton, an asset protection associate at the store, observed Morgan with the meat inside her purse. Morgan exited the store without paying for the meat. Minton alerted her supervisor who reviewed Morgan's actions on the surveillance cameras. Minton's supervisor subsequently notified the police.

While Morgan was outside, Brightman went back to the meat department and placed more meat in his shopping cart. Brightman pushed the shopping cart through other departments, placing other items in the shopping cart on top of the meat. Eventually, Morgan re-entered the store, met up with Brightman, and placed the additional meat in her purse. Both Brightman and Morgan left the store, again without paying for the meat.

As Brightman and Morgan approached the Nissan, New Albany Police Officer Merle Harl arrived and positioned his patrol car behind the Nissan to prevent Brightman from driving away. Officer Harl asked Brightman if he could look inside the vehicle, and Brightman immediately opened the trunk. Finding nothing of importance in the trunk, Officer Harl took a step toward the front of the car. Officer Harl noticed a blanket "laying over something" on the back floorboard. Tr. p. 115. Brightman began to step away from Officer Harl. Brightman fled in a "dead run" but was eventually arrested after he was found hiding in an abandoned building. Tr. p. 116. Police recovered \$192.63 worth of meat from

the Nissan's floorboard. Brightman and Morgan did not pay for the meat or have permission to remove it from Wal-Mart without doing so.³

On July 6, 2010, the State charged Brightman with Count I, Class D felony theft and Count II, Class D felony auto theft. On August 12, 2010, the State amended the charging information to include an allegation that Brightman was a habitual offender. The State subsequently sought and received permission to amend Count II to Class D felony receiving stolen property. On September 30, 2010, a jury found that Brightman was guilty of Class D felony theft and Class D felony receiving stolen property. Upon being found guilty of theft and receiving stolen property, Brightman admitted to being a habitual offender. On October 29, 2010, the trial court imposed an aggregate ten-year sentence.

DISCUSSION AND DECISION

Brightman contends that the evidence was insufficient to support his conviction for Class D felony receiving stolen property because the evidence failed to prove that he knew the vehicle in question was stolen. Brightman also contends that the evidence was insufficient to support his conviction for Class D felony theft because the evidence failed to prove that he “aided or induced Morgan to steal the meat.” Appellant’s Br. p. 11.

The standard for reviewing sufficiency of the evidence claims is well settled. We do not reweigh the evidence or assess the credibility of the witnesses. Rather, we look to the evidence and reasonable inferences drawn therefrom that support the verdict and will affirm the conviction if there is probative evidence from which a reasonable jury could have found the defendant guilty beyond a reasonable doubt.

³ The Nissan was subsequently returned to Coleman.

Stewart v. State, 768 N.E.2d 433, 435 (Ind. 2002) (citations omitted). “[I]t is for the trier of fact to reject a defendant’s version of what happened, to determine all inferences arising from the evidence, and to decide which witnesses to believe.” *Holeton v. State*, 853 N.E.2d 539, 541 (Ind. Ct. App. 2006).

A. Receiving Stolen Property

Brightman claims that the evidence was insufficient to sustain his Class D felony receiving stolen property conviction. In order to convict Brightman of Class D felony receiving stolen property, the State was required to prove that Brightman: (1) knowingly or intentionally; (2) received, retained, or disposed of the motor vehicle of another person; (3) that had been the subject of theft. Ind. Code § 35-43-4-2.5(c). In addition to proving the explicit elements of the crime, the State must also prove beyond a reasonable doubt that the person knew that the property was stolen. *Fortson v. State*, 919 N.E.2d 1136, 1139 (Ind. 2010). Knowledge that property is stolen may be inferred from the circumstances surrounding the possession. *Id.* However, the surrounding circumstances must include something more than the mere unexplained possession of recently stolen property. *Id.*

In the instant matter, the State presented evidence at trial demonstrating that neither Brightman nor Morgan owned or leased a vehicle. In addition, Brightman lived with Morgan and Coleman for approximately one month during which time Coleman would often lend her Nissan to Morgan. Coleman testified that she would lend her Nissan to Morgan for a few hours at a time but not for long or overnight periods. On June 1, 2010, Coleman gave Morgan permission to borrow her Nissan for a few hours. Brightman was not with Morgan

when she borrowed the Nissan, but was with Morgan later that day. After approximately five or six hours, Coleman repeatedly called Brightman's cellular phone to ask Morgan to return her Nissan. Morgan spoke to Coleman briefly after which neither Brightman nor Morgan would answer Brightman's phone. Morgan did not return Coleman's Nissan. Approximately one month later, on July 2, 2010, Coleman's Nissan was recovered from the parking lot of the New Albany Wal-Mart. At the time, Brightman was in possession of the Nissan. Brightman had possession of the key and granted Officer Harl permission to search the Nissan before running away in an attempt to evade arrest.

In light of the above-stated evidence, we conclude that the jury could reasonably determine that Brightman knowingly or intentionally possessed a vehicle which had been the subject of a theft, and infer from the circumstances that Brightman knew that the vehicle in his possession was stolen. The evidence indicates that Brightman knew that the Nissan belonged to Coleman, that Coleman had requested that the Nissan be returned to her possession, that Morgan had not returned the Nissan, and that the Nissan was in his possession at the time he was approached by Officer Harl in the Wal-Mart parking lot. In addition, we believe that the jury could reasonably infer that Brightman fled the Wal-Mart parking lot on foot after being questioned by Officer Harl regarding other stolen property because he knew that the vehicle was stolen. *See generally, Dill v. State*, 741 N.E.2d 1230, 1232 (Ind. 2001) (providing that while flight after the commission of a crime is not proof of guilt, it may be considered as evidence of consciousness of guilt). Brightman's claim to the

contrary effectively amounts to a request that we reweigh the evidence, which we will not do. *See Stewart*, 768 N.E.2d at 435.

B. Theft

Brightman also claims that the evidence was insufficient to sustain his Class D felony theft conviction. In order to convict Brightman of Class D felony theft, the State was required to prove that Brightman: (1) knowingly or intentionally; (2) exerted unauthorized control over the property of another; (3) with the intent to deprive the other person of any part of its value or use. Ind. Code § 35-43-4-2(a). The phrase “‘to exert control over property’ means to obtain, take, carry, drive, lead away, conceal, abandon, sell, convey, encumber, or possess property, or to secure, transfer, or extend a right to property.” Ind. Code § 35-43-4-1(a) (2009). “[A] person’s control over property of another person is ‘unauthorized’ if it is exerted: (1) without the other person’s consent...” Ind. Code § 35-43-4-1(b).

Indiana Code section 35-41-2-4 provides that under the theory of accomplice liability, “[a] person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense even if the other person: (1) has not been prosecuted for the offense; (2) has not been convicted of the offense; or (3) has been acquitted of the offense.” Ind. Code § 35-41-2-4. There is no distinction between the responsibility of a principal and an accomplice. *Wise v. State*, 719 N.E.2d 1192, 1198 (Ind. 1999). “Thus, one may be charged as a principal yet convicted on proof that he or she aided another in the commission of a crime.” *Id.* Evidence that the accomplice acted in concert with the individual who

physically committed the elements of the crime is sufficient to support a conviction on an accessory theory. *Schnitz v. State*, 650 N.E.2d 717, 721 (Ind. Ct. App. 1995). To be convicted as an accomplice, it is not necessary that a defendant have participated in every element of the crime. *Bruno v. State*, 774 N.E.2d 880, 882 (Ind. 2002).

In the instant matter, the State presented evidence demonstrating that Brightman worked in concert with Morgan to steal \$192.63 worth of meat from Wal-Mart. Prior to entering the store, Brightman and Morgan had “some discussion” about taking the meat from Wal-Mart. Tr. p. 171. Once inside, Brightman placed the meat in a shopping cart, pushed the shopping cart to the frozen food aisle where he met Morgan, Morgan placed the meat in her purse, and walked out of the store without paying for the meat. While Morgan was outside, Brightman again pushed the shopping cart to the meat department where he again loaded meat into his shopping cart. Morgan subsequently placed the additional meat in her purse and walked out of the store, again without paying. From this evidence, the jury could have reasonably inferred that Brightman and Morgan intended to take the meat from Wal-Mart without paying for it. Thus, we conclude that the evidence was sufficient to prove that Brightman knowingly or intentionally exerted unauthorized control over the property of Wal-Mart with the intention to deprive Wal-Mart of the value of the meat. Again, Brightman’s challenge on appeal effectively amounts to a request that we reweigh the evidence, which we will not do.

The judgment of the trial court is affirmed.

BAKER, J., and MAY, J., concur.