IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs September 26, 2023

STATE OF TENNESSEE v. CHRISTOPHER ALAN PETERS

Appeal from the Criminal Court for McMinn County
No. 20-CR-158 Andrew M. Freiberg, Judge

No. E2022-01558-CCA-R3-CD

Defendant, Christopher Alan Peters, was convicted by a McMinn County jury of aggravated burglary, and the trial court sentenced him as a Range II offender to ten years to serve in confinement. On appeal, Defendant argues that there is insufficient evidence to sustain his conviction because the State presented no evidence that he entered the residence with the intent to commit a theft. Following our review of the entire record, the briefs of the parties, and the applicable law, we affirm the judgment of the trial court.

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

JILL BARTEE AYERS, J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and TIMOTHY L. EASTER, JJ., joined.

Donald Shahan, District Public Defender; Paul D. Rush, Assistant Public Defender, Cleveland, Tennessee, for the appellant, Christopher Alan Peters.

Jonathan Skrmetti, Attorney General and Reporter; Katherine C. Redding, Senior Assistant Attorney General; Shari Tayloe, District Attorney General (Assistant District Attorney General at trial), for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

On October 5, 2021, Defendant was convicted by a jury of one count of aggravated burglary for unlawfully entering the home of Andrew Card and Nilda Reyes Lagos without their consent. On March 4, 2022, the trial court sentenced Defendant as a Range II multiple offender to ten years in confinement.

At Defendant's trial, Mr. Card testified that on November 28, 2019, when he and his family left their home that evening, it was "nice and clean and all the lights were off," and the front door was closed. However, when they returned after attending Thanksgiving dinner, they discovered Defendant in their home and "every light in the house was on." Mr. Card armed himself, told Ms. Reyes Lagos to call 9-1-1, approached the home, and ordered Defendant to step out onto the front porch. As Defendant walked out of the home, he told Mr. Card "this is a blue, I found the blue dot, this is a safe house, that's why I'm here[.]" While Mr. Card held Defendant at gun point on the front porch until the police arrived to secure the home, Defendant was texting "90 miles an hour[.]" Mr. Card did not enter the home until police confirmed that there was no one else inside.

Upon entering the home, Mr. Card noticed that the contents of Ms. Reyes Lagos' purse had been "dumped" on the bed in the main bedroom. The drawers in the bedside tables, the closet door, and the door to the medicine cabinet were also open in the main bedroom. Mr. Card could not determine whether anything was missing from the medicine cabinet, but Ms. Reyes Lagos testified that nothing was missing from either the medicine cabinet or her purse. Mr. Card also testified that their son's bedroom had been searched through because there "was a lot more stuff out of the closet and onto the bed and the floor."

Ms. Reyes Lagos' testimony corroborated Mr. Card's testimony, and she confirmed that nothing was taken from the home or moved from one room to another. Neither Mr. Card nor Ms. Reyes Lagos knew Defendant, and neither of them had given him permission to enter their home or look through their personal belongings.

Corporal Nathan Stiles, with the McMinn County Sheriff's Department, responded to the 9-1-1 call, but he could not recall whether the call was dispatched as a burglary or a trespassing call. When Corporal Stiles arrived at the home, he approached Defendant on the front porch and advised him of his *Miranda* rights before questioning him. Corporal Stiles wore a body camera which captured his encounter with Defendant. The video was shown to the jury. On the video, Defendant explained to Corporal Stiles that he was in the home because a truck drove at him, and "spooked" him. He described the truck and explained that he had recently come into some money and thought that was why the person in the truck was after him. Defendant denied that he was a thief. He admitted he had used "meth" a couple of days prior. He said he found the home because it was a "blue dot" on his phone, and he thought it was a "safe house."

Corporal Stiles searched Defendant and did not find any personal belongings taken from the home or any burglary tools but did find a folding knife in Defendant's jacket. There was no forced entry into the home. Corporal Stiles opined that based on his

experience, Defendant appeared to be under the influence of methamphetamine because he was "[p]aranoid and sweating profusely[.]" Corporal Stiles did not find a truck in the area matching the description Defendant provided.

After the State rested its case, Defendant moved for a judgment of acquittal on the grounds that the State had not met its burden of proving that Defendant entered the home with the intent to commit a theft. The trial court denied the motion because "[t]he way items were strewn about could lead a reasonable juror to conclude it was with the intent to commit theft."

Defendant testified on his own behalf. He explained that he used Google Maps on his phone where "[y]ou put in a location, or you mark your location, and you put in a location that you're designated to go, and it will come up and, you know, direct you to that place." Because the victims' home had a blue dot on it, he thought it was a "safe house." Defendant said he was walking toward the city limits of Athens

> . . . up County Road 135 and there was a truck that had passed me and turned around, a couple of driveways down, and came back at me at a high rate of speed. I took off across the owner's field, grass areas, hopped the porch railing, and as it was said, the doors were open. I opened the first door on the house and poked my head in and said, hello, hello, is anybody here, I need help. Nobody answered. I walked in and I turned the lights on.

Defendant entered the home hoping to "catch [his] breath and hopefully, you know, maybe get a ride out of there[.]" When asked why he did not call 9-1-1 to report the truck instead of entering someone's home, Defendant said "[i]n a desperate moment, if you're running, are you going to be able to call 9-1-1 while you're running on your phone?" He maintained that he did not go into any of the rooms except the kitchen and the bathroom and he had not looked through any of the personal belongings.

Defendant agreed that his testimony might seem paranoid but explained that he was under the influence of methamphetamine and the "[s]ide [e]ffects are hallucinations[,] . . . anxiety or, you know, as they would call them, shadow people might be after you, but, you know, I know what I [saw] and, you know, I heard the truck and I [saw] the truck." Defendant testified that he sat in the kitchen and went to the bathroom, but denied that he went through the rest of the house and denied going through drawers or dumping any items. On cross-examination, Defendant testified that he only went in the living room and the bathroom. However, he acknowledged that it was wrong for him to be in the home without permission and agreed that he was guilty of aggravated criminal trespass.

Based on this proof, the jury convicted Defendant as charged for the offense of aggravated burglary. Following a sentencing hearing on March 4, 2022, the trial court sentenced Defendant as a Range II offender to serve ten years.

Defendant filed a motion for new trial on April 5, 2022, arguing that the evidence was legally insufficient to sustain his conviction for aggravated burglary because there was no evidence that he entered the home with the intent to commit a theft. The trial court denied the motion reasoning that the jury was "instructed both on the aggravated burglary and the trespass statutes but . . . they accredited the State's witnesses," and a reasonable juror could have inferred the intent to commit a theft based on "everything in totality."

Defendant now appeals. The notice of appeal was filed two days late on November 4, 2022. In the interest of justice, this Court granted Defendant's motion to waive timely filing of his notice of appeal. [1]

Analysis

Defendant asserts that the evidence was insufficient to support his conviction for aggravated burglary because "the proof presented at trial was insufficient to prove that [Defendant] committed theft within the residence of the victims, or that [Defendant] had the intent to do so." The State responds that the evidence presented was sufficient to sustain Defendant's conviction. We agree with the State.

When appellate courts evaluate the sufficiency of the evidence, the court must ask "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." *State v. Wagner,* 382 S.W.3d 289, 297 (Tenn. 2012) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)); *see* Tenn. R. App. P. 13(e). A defendant bears the burden of "demonstrating why the evidence was legally insufficient to support the verdict" because "a guilty verdict removes the presumption of innocence and replaces it with a presumption of guilt." *State v. Allison*, 618 S.W.3d 24, 33 (Tenn. 2021) (first citing *State v. Jones*, 589 S.W.3d 747, 760 (Tenn. 2019); and then citing *State v. Gentry*, 538 S.W.3d 413, 420 (Tenn. 2017)). The jury resolves questions regarding factual issues, witness credibility, and the weight to be given to the evidence; thus, on appeal the State is afforded "the strongest legitimate view of the evidence as well as all reasonable and legitimate inferences which may be drawn therefrom." *State v. Davis*, 354 S.W.3d 718, 729 (Tenn. 2011) (citing *State v. Majors*, 318 S.W.3d 850, 857 (Tenn. 2010)).

[1] There were a number of other untimely filings in this case that have been previously addressed by this Court and are not the subject of this appeal.

Regardless of whether a jury's conviction is based on direct or circumstantial evidence, the standard of review remains the same. *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (citing *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009); *see State v. Hall*, 976 S.W.2d 121, 140 (Tenn. 1998) ("A crime may be established by direct evidence, circumstantial evidence, or a combination of the two."). 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, the inferences to be drawn from this evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence. *Dorantes*, 331 S.W.3d at 379 (citing *State v. Rice*, 184 S.W.3d 646, 662 (Tenn. 2006)). When considering the sufficiency of the evidence, this court "neither re-weighs the evidence nor substitutes its inferences for those drawn by the jury." *Wagner*, 382 S.W.3d at 297 (citing *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997)); *see State v. Terry*, No. M2011-01891-CCA-R3CD, 2012 WL 5873518, at *10 (Tenn. Crim. App. Nov. 19, 2012) ("This Court . . . presumes that the jury has resolved all conflicts in the testimony and drawn all reasonable inferences from the evidence in favor of the State.").

On the relevant date in this case, aggravated burglary was defined as the burglary of a habitation. T.C.A. § 39-14-403 (2019), *repealed and replaced by* § 39-13-1003 (Supp. 2021). At that time, the burglary statute provided: "[a] person commits burglary who, without the effective consent of the property owner . . . [e]nters a building other than a habitation . . . with intent to commit a felony, theft, or assault[.]" *Id.* § 39-14-402(a)(1) (2019), *repealed and replaced by* § 39-13-1002(a)(1) (Supp. 2021). A habitation is "any structure, . . . designed or adapted for the overnight accommodation of persons[.]" *Id.* § 39-14-401 (2019).

A person is not required to actually commit the intended crime once inside the building; burglary occurs once the person enters the building without consent of the owner with the requisite intent. *State v. Hill*, No. E2019-00556-CCA-R3-CD, 2020 WL 3867540, at *4 (Tenn. Crim. App. July 9, 2020) (citing *State v. Ralph*, 6 S.W.3d 251, 255 (Tenn. 1999)). A defendant's "specific intent may be established by circumstantial evidence." *Terry*, 2012 WL 5873518, at *10 (citing *State v. Burkley*, 804 S.W.2dd 458, 460 (Tenn. Crim. App. 1990).

It is undisputed that Defendant entered the home of Mr. Card and Ms. Reyes Lagos without their consent. It is also undisputed that Defendant did not actually take any property from the home or move property from one room to another. Defendant argues that he did not have the intent to commit a theft when he entered the home and thus committed aggravated criminal trespass, not aggravated burglary. *See* T.C.A. § 39-14-406

("A person commits aggravated criminal trespass who enters or remains on property when . . . [t]he person knows the person does not have the property owner's effective consent to do so[] and the person intends, knows, or is reckless about whether such person's presence will cause fear for the safety of another[.]").

Viewed in the light most favorable to the State, there was sufficient evidence for the jury to reasonably find that Defendant entered the home with the intent to commit a theft. The record shows that there were personal belongings strewn about, drawers and doors left open, and various items out of place, including the contents of Ms. Reyes Lago's purse, that were not left that way by Mr. Card or Ms. Reyes Lagos. Defendant was the only person present when Mr. Card and Ms. Reyes Lagos returned home. There is no proof in the record to corroborate Defendant's testimony that he entered the home because a truck was chasing him. Defendant did not contact law enforcement regarding the incident. Further, when law enforcement searched for a truck that matched the description Defendant gave to corroborate his story, there was no matching truck in the area.

The jury weighed the evidence, resolved conflicts in the evidence, and found Defendant guilty of aggravated burglary. It is not this Court's role to substitute its own judgments and inferences for that of the jury. *See Wagner*, 382 S.W.3d at 297. Defendant is not entitled to relief.

CONCLUSION

For the foregoing reasons, we affirm the judgment of the trial court.

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JILL BARTEE AYERS, JUDGE