

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs May 2, 2023

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STATE OF TENNESSEE v. JASMIN LAWAN TOWLES

Appeal from the Circuit Court for Fayette County
No. 22-CR-10 J. Weber McCraw, Judge

No. W2022-01589-CCA-R3-CD

The Defendant, Jasmin Lawan Towles, was convicted by a Fayette County Circuit Court jury of theft of property valued at \$1000 or less and sentenced by the trial court to 11 months, twenty-nine days at 75% in the county jail, with the sentence suspended after service of 100 days and the Defendant placed on probation supervised by community corrections. The sole issue he raises in this appeal is whether the evidence is sufficient to sustain his conviction. Based on our review, we affirm the judgment of the trial court.

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

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which TIMOTHY L. EASTER and KYLE A. HIXSON, JJ., joined.

Shana Johnson, Senior Assistant Public Defender (on appeal), and Matthew C. Edwards, Assistant Public Defender (at trial), Somerville, Tennessee, for the appellant, Jasmin Lawan Towles.

Jonathan Skrmetti, Attorney General and Reporter; Brent C. Cherry, Senior Assistant Attorney General; Mark E. Davidson, District Attorney General; and Raven Icaza, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTS

On July 20, 2022, the Defendant was tried before a Fayette County Circuit Court jury on one count of theft of property valued at \$1,000 or less based on his participation with an accomplice in the theft of merchandise from the Food Rite in Somerville. Food Rite Assistant Manager Edward Anderson testified that on October 20, 2021, he

determined that the store was missing approximately eighteen steaks from its inventory. He reviewed the previous day's security video, "saw the [D]efendant and his accomplice steal the steaks[.]" and contacted law enforcement. He made a positive courtroom identification of the Defendant as the man in the security video and said he was familiar with the Defendant because he had stolen from the store before. Mr. Anderson estimated that the value of the stolen merchandise was approximately \$200. He said he gave the security video to law enforcement. On cross-examination, he testified that he had not recently watched the security video and therefore could not recall if the Defendant was the one who physically took the steaks.

Sergeant Gustavo Salto of the Somerville Police Department testified that he responded to the reported theft at the Food Rite on October 20, 2021, reviewed with the store manager the previous night's store security video, and

he confirmed on the video that [the Defendant] was the lookout for Evalisha (spelled phonetically) Anderson who stuffed steaks in her purse. After they did that, they walked together towards the front. She bought some candy and she gave her purse to [the Defendant] and [the Defendant] grabbed her purse and left the store.

Sergeant Salto testified that he was able to positively identify from the security video the Defendant as the man who participated with Ms. Anderson in the theft of the steaks. He then made a positive courtroom identification of the Defendant as the man depicted on the video. He identified the store security video, which was published to the jury and admitted as an exhibit. On cross-examination, he testified that he never spoke with the Defendant and acknowledged that he did not know what the Defendant's intentions were on the day of the theft.

The Defendant did not testify and presented no evidence in his defense. Following deliberations, the jury convicted him of the indicted offense.

ANALYSIS

The sole issue the Defendant raises on appeal is whether the evidence is sufficient to sustain his conviction. Specifically, he argues that there was insufficient proof that he knew that the steaks were in Ms. Anderson's purse or had any intent to deprive Food Rite of the property, asserting that "[t]he record at best shows that Ms. Anderson secreted the steaks in her purse, carried her purse to the front of the store and then handed it to [the Defendant.]" The State responds that the jury could reasonably infer from the store security video that the Defendant and Ms. Anderson were acting together with the intent to deprive the store of the property when Ms. Anderson removed the steaks from the meat case,

concealed them in her purse, and handed her purse to the Defendant, who, knowing its contents, then purposefully walked out of the store without paying. We agree with the State.

When the sufficiency of the evidence is challenged on appeal, the relevant question of the reviewing court is “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.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *see also* Tenn. R. App. P. 13(e) (“Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the finding by the trier of fact of guilt beyond a reasonable doubt.”); *State v. Evans*, 838 S.W.2d 185, 190-92 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992).

Therefore, on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from it. *See State v. Williams*, 657 S.W.2d 405, 410 (Tenn. 1983). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *See State v. Pruett*, 788 S.W.2d 559, 561 (Tenn. 1990). “A jury conviction removes the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient.” *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

The guilt of a defendant, including any fact required to be proven, may be predicated upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *See State v. Pendergrass*, 13 S.W.3d 389, 92-93 (Tenn. Crim. App. 1999). The standard of review for the sufficiency of the evidence is the same whether the conviction is based on direct or circumstantial evidence or a combination of the two. *See State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011).

Theft of property occurs when a person “with intent to deprive the owner of property . . . knowingly obtains or exercises control over the property without the owner’s effective consent.” Tenn. Code Ann. § 39-14-103(a). Thus, “three elements must be proven to establish theft under our statute: ‘(1) the defendant knowingly obtained or exercised control over property; (2) the defendant did not have the owner’s effective consent; and (3) the defendant intended to deprive the owner of the property.’” *State v. Gentry*, 538 S.W.3d 413, 422 (Tenn. 2017) (quoting *State v. Amanns*, 2 S.W.3d 241, 244-45 (Tenn. Crim. App. 1999)).

The Defendant was charged under a theory of criminal responsibility. “A person is criminally responsible as a party to an offense, if the offense is committed by the person’s

own conduct, by the conduct of another for which the person is criminally responsible, or by both.” Tenn. Code Ann. § 39-11-401(a). Criminal responsibility for the actions of another arises when the defendant, “[a]cting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, . . . solicits, directs, aids, or attempts to aid another person to commit the offense[.]” Tenn. Code Ann. § 39-11-402(2). “[U]nder the theory of criminal responsibility, presence and companionship with the perpetrator of a felony before and after the commission of the crime are circumstances from which an individual’s participation may be inferred.” *State v. Phillips*, 76 S.W.3d 1, 9 (Tenn. Crim. App. 2001). “Under the theory of criminal responsibility, the evidence must establish that a defendant in some way knowingly and voluntarily shared in the criminal intent of the crime and promoted or assisted its commission.” *State v. Pope*, 427 S.W.3d 363, 369 (Tenn. 2013).

We conclude that the evidence, when viewed in the light most favorable to the State, was more than sufficient to sustain the jury’s verdict. The store security video shows the Defendant approaching the butcher area of the store where Ms. Anderson is standing. Ms. Anderson removes several packages of meat from the meat case, while the Defendant moves behind her and looks toward the front of the store. Ms. Anderson then reaches back into the case two more times, each time removing packages of meat, while the Defendant remains in the area and continues to look around the store. Another camera view shows Ms. Anderson pushing her grocery cart, empty of any meat, toward the cash registers, where the Defendant is standing. Ms. Anderson chooses an item from the gum and candy rack and then hands her purse to the Defendant. As she is paying for the item, the Defendant walks out of the store with her purse. According to the store manager, the next day the store was short approximately eighteen steaks, with a value of approximately \$200. From this evidence, a rational jury could reasonably find the Defendant guilty under a theory of criminal responsibility of the theft of property valued at \$1000 or less. Accordingly, we affirm the Defendant’s conviction.

CONCLUSION

Based on our review, we affirm the judgment of the trial court.

JOHN W. CAMPBELL, SR., JUDGE