

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0768

September Term, 2014

IN RE: TAE'ZA W.

Meredith,
Berger,
Davis, Arrie W.
(Retired, Specially Assigned),

JJ.

Opinion by Davis, J.

Filed: May 12, 2015

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of *stare decisis* or as persuasive authority. Md. Rule 1-104.

On March 10, 2014, following a hearing in the Circuit Court for Baltimore City, sitting as a juvenile court, the juvenile master recommended that Tae’za W., appellant, be found involved in acts that, had they been committed by an adult, would constitute the crimes of theft and unauthorized use of a vehicle. Appellant filed an exception to the master’s recommended disposition. The circuit court sustained appellant’s exception to the theft charge, but affirmed the master’s finding that appellant was involved in unauthorized use of a vehicle, and adopted the master’s recommended disposition. Appellant filed a timely appeal from the circuit court’s finding, presenting a single question for our consideration: **Is the evidence sufficient to establish that appellant was involved in the act of unauthorized use of a motor vehicle?** For the reasons set forth herein, we shall affirm the determinations of the circuit court.

FACTS AND LEGAL PROCEEDINGS

On February 9, 2014, Sharon Atkins, the owner of a purple, 1999, Dodge Caravan, loaned the minivan to her sister Robin Johnson. That day, Johnson drove the minivan from her place of employment to her mother’s house. Fifteen minutes later, when Johnson returned to where she had parked, the minivan was gone.

Around 4:00 p.m. on February 11, 2014, Officer John Gossett of the Baltimore City Police Department, while patrolling in an unmarked police vehicle, observed two individuals, an African-American man and woman, riding in a purple Dodge Caravan. Officer Gossett followed the minivan, while contacting a police dispatcher to run a check on the vehicle. The

dispatcher confirmed that the minivan had been reported stolen. When the vehicle ran a stop sign, Officer Gossett activated his emergency lights and sirens, signaling the driver to pull over. The driver ignored the officer, continuing to drive several city blocks at about 45 to 50 miles per hour. Officer Gosset had to discontinue his pursuit because of heavy traffic, but continued to drive in the direction the minivan had been going.

Officer Kasra Fathi testified that she and her partner Officer Richards were also patrolling in an unmarked police vehicle when they came upon the purple Dodge Caravan in the middle of an intersection with both the driver's and passenger's side doors open. Officer Fathi observed two individuals, an African-American man and a woman, sprinting away from the minivan. Officer Fathi called out "Police, get on the ground," but both individuals ignored the order. Both individuals were pursued, identified, and placed in custody.

Officer Gosset arrived and confirmed that the young woman that had been apprehended by officers Fathi and Richard was the same individual he had seen riding in the passenger seat of the purple minivan. Officer Gosset examined the vehicle and observed that the rear passenger's side window was broken, the ignition had been popped, and there was a black screwdriver on the driver's seat. When Officer Gossett transported fifteen-year-old appellant to the juvenile justice center, he learned that she was wanted on a runaway warrant.

At the adjudication, Officer Gosset identified appellant as the individual who participated in the events on February 11, 2014.

The minivan was towed to the Baltimore City impound lot, where it was later recovered by its owner, Sharon Atkins. Neither Atkins or her sister, Johnson, had given anyone permission to drive the vehicle.

Appellant was initially charged with several theft offenses, unauthorized use of a motor vehicle, and conspiracy to commit unauthorized use. On March 10, 2014, following an adjudication hearing before a juvenile master of the Baltimore City Circuit Court, the master recommended that appellant be found responsible on the charges of theft of goods valued at less than \$1,000 and unauthorized use. The other charges against appellant were dropped. Appellant filed an exception to the master's recommended disposition. On June 23, 2015, the circuit court sustained appellant's exception to the master's determination that she had been involved in a theft, but overruled appellant's exception to the finding that she was responsible for unauthorized use of a motor vehicle. Appellant filed a timely appeal of the circuit court's determination.

STANDARD OF REVIEW

The standard for review of evidentiary sufficiency 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. *State v. Smith*, 374 Md.

527, 533 (2003); *Jackson v. Virginia*, 443US 307, 313(1979). In the instant case, the limited issue before this Court is whether the evidence adduced by the State, either directly or circumstantially proved that appellant possessed the requisite *mens rea* to support the circuit court’s finding that appellant was involved in acts which, had they been committed by an adult, would constitute the crime of unauthorized use of a motor vehicle.

LEGAL ANALYSIS

The master and the circuit court both concluded that appellant was involved in acts, which had they been committed by an adult, would constitute the crime of unauthorized use of a motor vehicle. Maryland Code (2002, 2013 Repl. Vol). §7-203(a) of the Criminal Law Article (“Crim.”) provides in pertinent part: “Without the permission of the owner, a person may not take and carry away from the premises or out of the custody of another or use of the other, or the other’s agent, or a governmental unit any property, including . . . (2) a motor vehicle.” “A person is guilty of unauthorized use of a motor vehicle if, knowing that the car has been stolen, the person participates in the continued use of it after the initial taking, as that continued participation manifests an intent to deprive the owner of possession of the vehicle.” *In re Levon A.*, 361 Md. 626, 638 (2000). Knowledge that the property was stolen may be inferred from “facts and circumstances such as would cause a reasonable man of ordinary intelligence, observation and caution to believe that the property had been unlawfully taken.” *Anello v. State*, 201 Md. 164, 168 (1952). Among those circumstances

from which a court may infer that a defendant knew or should have known that the property was stolen are: “unexplained possession of recently stolen property, flight from the police or other evidence indicating an attempt to avoid capture and the condition of the property indicating a theft.” *In re Landon G.*, 214 Md. App, 483, 500 (2013) (quoting *Commonwealth v. Carson*, 405 Pa. Super. 492, 497, 592 A.2d 1318, 1321, *appeal denied*, 529 Pa 616 (1991)).

Appellant contends that the State failed to prove at her adjudication that she had the requisite knowledge that the minivan was stolen. She asserts that, although she was apprehended after she was observed riding as the passenger in a recently stolen vehicle, because of her young age, the court erred by inferring that she understood the significance of the popped ignition and broken window, which might have indicated to an older individual that the minivan had been stolen. Appellant further explains that her flight from the police was not probative of her guilty knowledge regarding the ownership of the minivan, but rather was motivated by her fear of being apprehended on the outstanding runaway warrant.

On appeal from the master’s recommendations, the circuit court, in its memorandum opinion, credited appellant’s contention that she ran away from the police in order to avoid arrest on her outstanding runaway warrant, not because she was involved in the theft of the

minivan.¹ As a consequence, the court determined that the only evidence of appellant's possession of the minivan was her presence in the stolen vehicle, which was not sufficient to support the master's finding that appellant was involved in the theft of the minivan. The court concluded, however, that the master's finding on the charge of unauthorized use was supported by sufficient evidence, and therefore, the court denied appellant's exception as to that offense. We agree with the circuit court's conclusions as to the offense of unauthorized use.

Evidence that an individual was a willing passenger in a vehicle that he or she knew, *or should have known*, was stolen is sufficient evidence to sustain a conviction for unauthorized use. *See Banks v. State*, 2 Md. App. 373, 376-77 (1967) (upholding a conviction for unauthorized use because a popped ignition and dangling wires were enough to support the inference that a passenger had knowledge that the vehicle was stolen); *Anello v. State*, 201 Md. 164, 168-69 (1952) (holding that a passenger in a stolen vehicle was guilty of unauthorized use despite claiming he innocently accepted a ride from a man he hardly knew). Persuasively, in this Court's opinion in *In re Levon A.*, 124 Md. App. 103 (1998),

¹Though we shall not challenge the circuit court's determination on this point, we believe that had appellant simply remained at the scene, rather than flee, there would have been little circumstantial evidence of any culpable *mens rea* for complicity in acts constituting either theft or unauthorized use.

rev'd on other grounds, 361 Md. 626 (2000),² we considered facts that are very similar to those presented in the instant case. In *Levon*, the respondent passenger claimed that he did not know the vehicle was stolen despite a broken vent window and popped ignition. *Id.* at 112. This Court upheld the circuit court's affirmation of the master's determination that the respondent was responsible for acts constituting unauthorized use of a vehicle, quoting the master who stated in rendering his determination, "[A]lthough this young man said he didn't see [the popped ignition and broken window] . . . He had an opportunity to see it from his vantage point in the front seat. The Respondent at least in this matter should have known the car was stolen." *Id.* at 113, 147.

Similarly, in this case, appellant was observed by Officer Gossett, sitting in the front passenger seat of the stolen minivan. The passenger side rear window was broken. The ignition had been popped and a screwdriver, ostensibly used to activate the automobile ignition, was recovered from the driver's seat of the vehicle. Appellant's position in the front seat of the vehicle supports an inference that a reasonable person in her position either knew, or should have known, that the vehicle was stolen. We conclude, therefore, that the evidence presented at appellant's adjudication was sufficient to support the circuit court's

²In *Levon*, the question before this Court, which was eventually reversed by the Court of Appeals, concerned whether the circuit court erred by ordering the respondent and his mother to pay restitution. 124 Md. App. at 110; 361 Md. at 629. The Court of appeals did not reverse this Court's affirmation of the circuit court's judgment regarding Levon's responsibility for acts constituting unauthorized use. 361 Md. at 641.

conclusion that appellant was responsible for acts constituting unauthorized use of a motor vehicle.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED; COSTS TO BE PAID BY
APPELLANT.**