

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1585

September Term, 2013

JARED JONES REEDER

v.

STATE OF MARYLAND

Krauser, C.J.,
Berger,
Reed,

JJ.

Opinion by Krauser, C.J.

Filed: February 16, 2016

*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.

Convicted by a jury in the Circuit Court for Washington County of theft by possession of stolen property with a value over \$10,000, Jared Jones Reeder, appellant, presents the following question for our review: Was the evidence sufficient to prove theft or theft of a value greater than \$10,000? Because we find that this issue was not preserved for appellate review, we shall affirm the judgment of the circuit court.

BACKGROUND¹

On November 15, 2012, two men, with their faces covered and wearing gloves, entered the Susquehanna Bank in Hagerstown. One of the men, after pointing a gun at the branch manager, Kimberly Hayes, told everyone in the bank to put their hands up. He then produced a second gun and pointed it at the bank tellers. In the meantime, the other man, who did not appear to have a gun, jumped over the counter and took approximately \$12,900 from three bank drawers.

Each of these drawers contained a “bait pack” and a “dye pack.” According to Hayes, the bank’s manager, a “bait pack” is a set of 20-dollar bills that are logged so that they can be identified in case of a robbery, and a “dye pack” is a set of bills containing a device that explodes if the pack is taken out of the bank, which would have the effect of burning some of the money and dispersing a red dye.

¹ As Reeder’s sole contention is that the evidence was insufficient to support his convictions, the evidence is presented in the light most favorable to the State. Evidence tending to support the defense theory of the case is omitted as exculpatory inferences are not part of the version of evidence most favorable to the State. *See Cerrato-Molina v. State*, 223 Md. App 329, 351, *cert. denied*, 445 Md. 5 (2015).

The day after the robbery, Reeder entered the AC&T store in Hagerstown to pay for gas. He gave the cashier two five or ten dollar bills, then left the store.² The cashier immediately noticed that the bills “looked a little pink” and thought they might be counterfeit. When the bills were rejected by an automatic bill feeder in the store, she showed them to the store manager. The manager directed her to stop the gas pump. When she did, Reeder re-entered the store and said that the gas pump was not working, whereupon the manager told Reeder that there was “something wrong” with the money he had given them. When Reeder then reached for the money, the manager said, “No, I’m gonna have this checked,” and indicated that she was calling the police. Reeder immediately left the store and departed in a vehicle driven by another individual. A description of that vehicle was later given to the police.

That same day, Officer Michael Kovac of the Hagerstown City Police Department was dispatched to AC&T in response to a call about counterfeit money. When he arrived, the manager of the store showed him two bills, which he observed were “very pink.” Upon viewing the store surveillance footage, the officer observed the individual that had entered the store with the suspicious money. Moments later, after receiving a call that another officer had stopped a vehicle that matched the description of the one in which the suspect had left, Officer Kovac proceeded to the location of the traffic stop. There, Officer Kovac identified Reeder, one of the two occupants of the vehicle, from the surveillance footage.

² The record is not clear as to whether the bills were five or ten dollar bills.

And the driver of the vehicle was ultimately identified as “Jacob Adams,” Reeder’s cousin, who later admitted to having been involved in the robbery. The officer also observed a “large amount of U.S. currency” sticking out from underneath the driver’s seat.

Both men were then placed under arrest and \$4,666 in currency was recovered from the vehicle. Not only were a number of bills damp, presumably from having been washed to remove the dye, but seven 20 dollar bills had serial numbers that matched those of bait money that was stolen during the bank robbery.³ Also, found in the vehicle were binoculars and a “for sale” sign in one of the windows containing Reeder’s phone number. At trial, Reeder testified that, being “homeless,” he sometimes slept in the car, that he and Adams had both “crashed” in the car the night before they were arrested, and that he drove the car to the gas station the next morning.

Reeder was subsequently charged with armed robbery, robbery, and theft of property with a value of between \$10,000 and \$100,000, as well as various conspiracy, assault and weapons charges related to the robbery, but, as noted earlier, he was convicted only of theft by possession.⁴

³ The bait pack apparently contained fifteen bills, but only seven of those in the bait pack were recovered from the vehicle.

⁴ Specifically, the various related charges were: three counts of first degree assault; three counts of second degree assault; conspiracy to commit armed robbery; conspiracy to commit robbery; conspiracy to commit theft; use of a firearm in the commission of a felony; wearing, carrying or transporting a handgun; and possession of a firearm after having been convicted of a disqualifying crime.

DISCUSSION

Reeder claims that there was not sufficient evidence presented to support his theft conviction. He gives two reasons: First, he asserts that the State failed to prove the element of knowledge required to sustain a conviction for theft by possession, as his “mere presence” in the vehicle in which the stolen money was found does not constitute proof of “knowledge.” And, second, he suggests that even assuming there was sufficient evidence to convict him of theft, it was nonetheless insufficient to prove that the value of the stolen property was \$10,000 or more because only about \$4,600 was recovered by police.

These claims, however, were not preserved for appellate review. After the State rested its case, defense counsel only moved for a judgment of acquittal as to the three weapons charges, stating to the court the following:

At this point, and I understand the defense has yet to present its case, I particularly would make a Motion for Judgment . . . of Acquittal as to counts thirteen, fourteen and fifteen, using a firearm in the commission of a felony[;]
wearing, carrying and transporting a handgun[;] and possessing a regulated firearm. Obviously, no firearms have been recovered. And the only testimony identifying people in the photographs, I believe Detective Blankenship was of the opinion, I believe it was Blankenship, that the person with the guns was Mr. Adams. So as to those three counts, I make my motion.

The motion was denied.

At the close of all the evidence, defense counsel renewed his motion for judgment of acquittal, arguing only that Reeder did not fit the physical description of the accomplice in the robbery:

[T]he defense has presented the co-defendant, who pled guilty and says that Mr. Reeder is not the other person. And, obviously, Mr. Reeder[] testified

in this regard.... [W]e have introduced the exhibit from the Detention Center showing a description of being 6'2", 283. By his own testimony, I think today's he's around 245, 250. Mr. Adams identified exhibit Five as being – he being the person in exhibit Five with the guns, which leaves exhibit Six, the person jumping over the counter as the co-defendant. And quite frankly, I submit that there's no way that's Mr. Reeder [T]he thing that nobody has ever seemed to understand is looking at the video, physically it can't be Mr. Reeder jumping over the counter.

The court again denied that motion as well.

It is not clear whether the grounds advanced in support of the motion at the close of all the evidence was in addition to or in lieu of the grounds set forth at the close of the State's case. Nonetheless, these arguments did not include the claim Reeder now makes on appeal, that is, that the State failed to prove any of the elements necessary to support a conviction for theft by possession of stolen property.

It is well-settled that “a defendant may not argue in the trial court that the evidence was insufficient for one reason, then urge a different reason for the insufficiency on appeal in challenging the denial of a motion for judgment of acquittal.” *Tetso v. State*, 205 Md. App. 334, 384, *cert. denied*, 428 Md. 545 (2012) (citation omitted). *See also Whiting v. State*, 160 Md. App. 285, 308 (2004) (reaffirming that review of sufficiency claim is available only for reasons given by appellant in his motion for judgment of acquittal), *aff'd*, 389 Md. 334 (2005). Accordingly, as Reeder did not move for judgment of acquittal on the charge of theft by possession of stolen property, the issue of whether the evidence was sufficient to support that conviction was not preserved for appellate review.

But, even if Reeder had moved for judgment of acquittal as to the charge of theft by possession, he would not have prevailed on that motion. The standard for reviewing the

sufficiency of the evidence is “whether, after reviewing the evidence in the light most favorable to the State, a rational trier of fact could have found each element of the crime beyond a reasonable doubt.” *Rodriguez v. State*, 221 Md. App. 26, 35, cert. denied, 442 Md. 517 (2015) (citation and internal quotation marks omitted). In order to convict Reeder of theft by possession of stolen property, the State had to prove that Reeder was in possession of property he knew or believed was probably stolen, with the intent to deprive the owner of the property. Maryland Code (2012 Repl. Vol), Criminal Law Article, § 7-104(c)(1).

The evidence showed, when viewed in the light most favorable to the State, that after Adams and another individual robbed the bank, Reeder and Adams spent the night sleeping in a car driven by and advertised for sale by Reeder. The next morning, Reeder drove the car to a gas station, where he used bills that were marked with red dye to pay for gas. When the manager told him that there was “something wrong” with the money and that the police were being called, Reeder promptly left the store, and drove off in a vehicle with Adams. When their vehicle was pulled over a short time later, police found inside the car over \$4,600 underneath the driver’s seat, including damp bills and bait money traceable to Susquehanna bank.

This evidence established more than Reeder’s “mere presence” in the car in which stolen money was found and was sufficient to support his conviction for possession of stolen property. And, although only \$4,666 of the \$12,900 that had been stolen from the bank was found in the car, it could be reasonably inferred from the evidence that Reeder,

who was apparently living in a car with Adams, had discarded that portion of the stolen money that was burned and/or too badly marked with dye to be used. *See Kyler v. State*, 218 Md. App. 196, 219, *cert. denied*, 441 Md. 62 (2014) (“Circumstantial evidence is entirely sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused.” (citation and internal quotation marks omitted)).

**JUDGMENT OF THE CIRCUIT COURT
FOR WASHINGTON COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**