

Circuit Court for Prince George's County
Case No. CJ161230

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2250

September Term, 2016

DURWIN STEPHON SKIPPER, JR.

v.

STATE OF MARYLAND

Woodward, C.J.,
Beachley,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 3, 2017

*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.

A jury in the Circuit Court for Prince George’s County convicted Durwin Stephon Skipper, Jr., appellant, of theft of property valued under \$1,000. The court sentenced him to a prison term of eighteen months, with all but ten days suspended, to be followed by a two-year period of probation. Additionally, the court ordered appellant to pay \$1,400 in restitution. On appeal, appellant argues that the evidence was insufficient to sustain his conviction. Finding that there was sufficient evidence, we affirm.

BACKGROUND

On the afternoon of August 17, 2015, Oluwa Tami Lore Olafunmilyoe was studying for an exam in the Engineering and Physical Sciences Library at the University of Maryland in College Park. A man, identified at trial as appellant, approached Olafunmilyoe and told him that his name was “Dee” and that he was a transfer student taking summer classes. Appellant said that he had left his student ID in a friend’s car, and he asked Olafunmilyoe to check out a laptop for him to do research.¹ Initially, Olafunmilyoe declined, but he changed his mind and used his student ID to check out a silver Dell laptop for appellant.

Appellant and Olafunmilyoe sat together on the second floor of the library for approximately twenty-five minutes. Appellant then said that he was meeting a friend to do work, so he and Olafunmilyoe went to the first floor. Approximately a half-hour after that, appellant told Olafunmilyoe that he was going to meet his friend outside and bring that

¹ At trial, Martha deLaubenfels, a librarian, testified that the library has 10 Dell and 27 Apple laptops available for students to check out. She explained that only students may check out laptops by showing their student IDs. She also noted that each laptop has a sticker with an individualized barcode number on it.

person back to the library. Olafunmilyoe explained that if anything happened to the laptop, the school would charge him. Appellant then wrote “Derrick Johnson” on a sheet of paper, along with his phone number and a fake student ID number, which he gave to Olafunmilyoe. Appellant then left the library.

Shortly afterward, Olafunmilyoe realized that appellant had not returned with his friend, and he discovered that appellant had taken the laptop. He tried calling and texting the number appellant had given, but he did not receive a response. He reported the laptop missing. The school fined Olafunmilyoe \$1,400 for the missing laptop.

At trial, in addition to Olafunmilyoe’s testimony, the State introduced video surveillance showing appellant and Olafunmilyoe conversing, Olafunmilyoe checking out a laptop, and appellant leaving the library carrying the laptop. The surveillance footage showed appellant leave the library and walk to a vehicle, which he then unlocked and drove away. Ms. deLaubenfels, a librarian, testified that the library was currently missing only one Dell laptop, and it had been missing since August 17, 2015, when Olafunmilyoe checked it out. Additionally, Olafunmilyoe testified that at a prior proceeding, appellant followed him into the bathroom and asked how much Olafunmilyoe had paid for the laptop. Appellant said he would give Olafunmilyoe \$1,500 if he dropped the case.

Appellant testified in his defense. He claimed that he was considering enrolling in classes at the University of Maryland and was doing research concerning that process. Appellant stated that when he left the library, he encountered another student in the stairwell and asked that person to take the laptop back to the circulation desk. Appellant claimed he had no intention of taking the laptop.

DISCUSSION

Appellant contends that there was insufficient evidence to sustain his conviction because the State failed to identify the laptop that appellant allegedly stole. Specifically, appellant maintains that to identify the laptop, the State needed someone to testify to the missing laptop's barcode number.

In reviewing the sufficiency of the evidence, “we examine the record solely to determine whether ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Tarray v. State*, 410 Md. 594, 607-08 (2009) (quoting *McKenzie v. State*, 407 Md. 120, 136 (2008)). In this analysis, “[w]e view the evidence in the light most favorable to the prosecution[,]” and “[w]e give due regard to the [fact finder's] finding of facts, its resolution of conflicting evidence, and significantly, its opportunity to observe and assess the credibility of witnesses.” *Spencer v. State*, 450 Md. 530, 549 (2016) (quoting *Harrison v. State*, 382 Md. 477, 487-88 (2004)).

Theft is prohibited by Maryland Code (2002, 2012 Repl. Vol.), Criminal Law Article (“C.L.”), § 7-104. Subsection (a) of that statute prohibits someone from willingly or knowingly obtaining unauthorized control of property if that person “(1) intends to deprive the owner of the property; (2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or (3) uses, conceals, or abandons the property” in a manner that will “probably” deprive the owner of the property. Subsection (b) of § 7-104 is substantially similar and states that a person may not “willfully or knowingly” use deception to gain control of property. *See also Gamble v. State*, 78 Md. App. 112, 118, *aff'd*, 318 Md. 120 (1989) (discussing elements of theft).

Under either modality of theft, we are persuaded that there was sufficient evidence to sustain appellant’s conviction. The specific barcode of the laptop was not necessary.² Olafunmilyoe testified that, based on appellant’s story, he checked out a silver Dell laptop using his student ID, and he gave it to appellant. As such, the jury could rationally conclude that appellant had obtained control of the property by deception.³ Furthermore, in reviewing the surveillance footage, Olafunmilyoe pointed out that appellant can be seen leaving the library with the laptop, which can be identified by the library’s “white stickers.” Therefore, appellant also gained control of the property by taking it. Additionally, deLaubenfels testified that the library was currently missing only the Dell laptop from slot number one, which had been missing since it had been checked out to Olafunmilyoe on August 17, 2015. Accordingly, there was sufficient evidence identifying the laptop as the thing appellant stole, even without the specific barcode number.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**

² Indeed, we fail to perceive what purpose the identification of the specific bar code of the missing laptop would have at trial, given that the laptop was never recovered. If deLaubenfels had read the barcode number of the missing laptop, that would have simply been a bit of trivia for the jury to consider because there was not a laptop in evidence to compare barcodes.

³ See *Spencer*, 450 Md. at 568 (“[T]he trier of fact may infer the existence of the required intent from the surrounding circumstances such as the accused’s acts, conduct and words.” (quoting *Smallwood v. State*, 343 Md. 97, 104 (1996))).