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Mar 09, 2016  
Court of Appeals  
Division I  
State of Washington

NO. 73618-3-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

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STATE OF WASHINGTON,

Respondent,

v.

ERIC SHARPE,

Appellant.

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APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE BRUCE E. HELLER

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**BRIEF OF RESPONDENT**

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**A. ISSUE PRESENTED**

Evidence is sufficient to support a conviction if any rational trier of fact, reviewing the evidence in the light most favorable to the State, could have found the essential elements of the crime beyond a reasonable doubt. The State presented evidence from multiple witnesses that Sharpe entered a residence, in King County, Washington, with the intent to commit a crime therein on May 31, 2013. Is there sufficient evidence to demonstrate that the defendant committed residential burglary?

**B. STATEMENT OF THE CASE**

1. PROCEDURAL HISTORY

The State charged Eric Sharpe with one count of residential burglary and one count of vehicle prowl in the second degree. At trial, a jury found Sharpe guilty of both residential burglary and vehicle prowl in the second degree. Sharpe was sentenced to a residential Drug Offender Sentencing Alternative (DOSA).

2. SUBSTANTIVE FACTS

Kathleen Hess lives next door to a house maintained by Bonnie Heaven, the victim. 4/8/15 RP 34. A driveway splits the

two properties, and they both share a fence line behind the garage. 4/8/15 RP 34. Heaven's property had previously belonged to her father, who passed away in 2011. 4/8/15 RP 76. Heaven also had two vehicles that were parked in the yard; one Cadillac that did not work and a pickup truck that was difficult to start. 4/8/15 RP 83. Heaven kept the keys to the vehicles inside the home. 4/8/15 RP 52.

On May 31, 2013, around 4pm, Hess heard the sound of someone trying to start a vehicle on Heaven's property. 4/8/15 RP 35, 36. Hess went out on her deck to investigate, but did not see anyone next door. 4/8/15 RP 38. After hearing the noise, Hess went into her yard and fed her goats. 4/8/15 RP 38. As Hess returned to the deck, she saw a white, tall, thin male rummaging through items on a table in Heaven's yard. 4/8/15 RP 39. Not recognizing the individual, Hess went inside and called 911. 4/8/15 RP 39.

Police arrived at the residence four or five minutes later. 4/8/15 RP 39, 101. King County Sheriff's Deputies Boggess and Murphy pulled into the driveway and walked towards the house. 4/8/15 RP 95, 101. Deputy Boggess went to one corner of the house and Deputy Murphy walked to the opposite corner of the

house so they could see all sides of the home. 4/8/15 RP 102. As Deputy Boggess walked around the house he noticed that all windows and window screens were intact. 4/8/15 RP 102, 107. Deputies Boggess and Murphy then entered the house through a door that was open and announced their presence so that anyone inside would hear them. 4/8/15 RP 106, 122. The home was a split level home, so Deputy Boggess went up the stairs and Deputy Murphy went down the stairs. 4/8/15 RP 106. Deputy Murphy cleared the lower half of the home and did not find anyone in the basement. 4/8/15 RP 106, 107.

Upon entering the home, Deputy Boggess immediately noticed that there was a heavy coating of dust on everything. 4/8/15 RP 106. As Deputy Boggess cleared the upstairs he also noticed that there was a large cut in one of the window screens that appeared to have been recently made. 4/8/15 RP 107, 127. Deputy Boggess could tell that the cut was fresh because there was no dust on the screen, whereas everything else in the home had a heavy layer of dust. 4/8/15 RP 107. As the deputy looked out the window he could also see that there was an obvious path through the grass. 4/8/15 RP 108. The path in the grass started at the freshly cut window screen and went straight into the tree line.

4/8/15 RP 108. Fearing that the suspect was fleeing the scene, Deputy Boggess called for supporting units to respond to the home. 4/8/15 RP 108.

A few minutes later, Officer Trader from the Renton Police Department arrived on scene with his canine, Boss. 4/8/15 RP 62. Officer Trader spoke with the KCSO deputies that were at the scene, and walked to the cut window screen. 4/8/15 RP 63. Officer Trader gave Boss the "seek" command which tells the dog to start tracking the scent. 4/8/15 RP 63. Boss followed the trail through the grass and found Eric Sharpe, in the woods, 200 feet from the home. 4/8/15 RP 66.

Sharpe was wearing gloves and lying in the mud next to some pruning shears and a backpack. 4/8/15 RP 66, 112. Mr. Sharpe was placed in custody and searched by Deputy Boggess. 4/8/15 RP 112. Deputy Boggess found glass cutters and multiple rings of keys in the defendant's pockets. 4/8/15 RP 112. The key rings contained many different keys belonging to various makes of cars and many of them were filed. 4/8/15 RP 112. The filed keys are known as "jiggler" keys and are used to steal cars. 4/8/15 RP 112.

Sharpe was led back to the residence. 4/8/15 RP 135. The defendant was Mirandized, waived his rights, and began talking with King County Sheriff's Deputy Carrie Bruce. 4/8/15 RP 135. Sharpe told the deputy that he knew the owner of the house had recently passed away and he was there to look at one of the cars in the yard. 4/8/15 RP 135, 136. Hess saw Sharpe being detained by police and confirmed that he was the same person she saw in the yard minutes before police arrived. 4/8/15 RP 41.

When Heaven responded to the property, after the burglary occurred, she noticed that there was a suitcase sitting on the bed, which had not been there when she last locked the house. 4/8/15 RP 86. The suitcase was partially full with items from around the home. 4/8/15 RP 86. Heaven also discovered that someone had cut multiple wires in the basement near the electrical panel. 4/8/15 RP 87.

C. **ARGUMENT**

THERE WAS SUBSTANTIAL EVIDENCE THAT  
MR. SHARPE ENTERED THE HOME WITH AN INTENT  
TO COMMIT A CRIME INSIDE

A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle. RCW 9A.52.025. Sharpe contends that the State failed to prove that he entered the home with intent to commit a crime. This argument fails because there is substantial evidence in the record that Sharpe entered the home after failing to steal a car from the driveway, placed property from the home into a suitcase, and cut a window screen to flee the scene when police arrived, all while wearing gloves to cover his fingerprints.

Evidence is sufficient to support a conviction if, viewed in a light most favorable to the State, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all reasonable inferences that reasonably can be drawn therefrom." Id. at 201. Circumstantial and direct evidence

are equally reliable. State v. Fiser, 99 Wn. App. 714, 718, 995 P.2d 107 (2000).

The State need not prove that there was intent to commit a specific crime inside, rather “the intent required by our burglary statutes is simply the intent to commit any crime against persons or property inside the burglarized premise.” State v. Bergeron, 105 Wn.2d 1, 4, 711 P.2d 1000 (1985). The intent to commit a specific named crime inside the burglarized premises is not an element of the crime of burglary in the State of Washington. Id. The intent to commit a crime “may be inferred from all the facts and circumstances.” State v. Lewis, 69 Wn.2d 120, 123, 417 P.2d 618 (1966). Furthermore, intent “may be inferred from conduct that plainly indicates such intent as a matter of logical probability.” Id. at 124.

Here, Hess saw Sharpe on Heaven’s property rummaging through various items outside the house and heard Sharpe attempting to start a truck that did not belong to him. 4/8/15 RP 36, 39. Hess also testified that she knows that the keys to that vehicle are kept inside Heaven’s home. 4/8/15 RP 52. This evidence supports a finding that Sharpe went inside the home to get the keys to the vehicle, which did not belong to him, and tried to take the

vehicle. Being unsuccessful, the defendant went back inside the home.

When police arrived at the home they found one point of entry, the door on the side of the house. 4/8/15 RP 106. Once inside the home, they discovered that a screen had recently been cut and there was a path from the window leading into the woods. 4/8/15 RP 107, 108. In that bedroom, where the screen was cut, there was a suitcase filled with items from around the house. 4/8/15 RP 86. This indicates that Sharpe was inside the residence, collecting items to take from the home. This evidence supports a finding that when police arrived, Sharpe cut the window screen and fled the residence to escape detection.

Sharpe was then tracked by a canine and found hiding in the woods, 200 feet from the home. 4/8/15 RP 66. Sharpe was found to be in possession of pruning shears, jiggler keys, a glass cutter, and gloves for his hands. 4/8/15 RP 112. Sharpe's flight from the house suggests that his intentions inside the home were criminal in nature. Furthermore, the defendant was found in possession of many tools that are commonly used to commit burglaries.

Taking all these facts together and reviewing the evidence and "all reasonable inferences that can be drawn therefrom," a

rational trier of fact would find that the defendant entered the home with the intent to commit a crime therein. State v. Salinas, 119 Wn.2d at 201, 829 P.2d 1068.

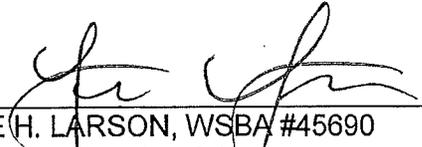
**D. CONCLUSION**

Viewing the evidence in the light most favorable to the State, there is sufficient evidence that Sharpe entered the home with the intent to commit a crime inside. The Court should affirm Sharpe's convictions.

DATED this 9 day of March, 2016.

Respectfully submitted,

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Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Thomas Kummerow, the attorney for the appellant, at Tom@washapp.org, containing a copy of the respondent brief, in State v. Eric M Sharpe, Cause No. 73618-3, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Dated this 9 day of March, 2016.

  
Name: Seattle  
Done in Kent, Washington