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Court of Appeals
Division III
State of Washington
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COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

CHANDRISS MILES, a/k/a DESHAZO, APPELLANT

APPEAL FROM THE SUPERIOR COURT
OF SPOKANE COUNTY

BRIEF OF RESPONDENT

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INDEX

I. APPELLANT’S ASSIGNMENT OF ERROR..... 1

II. ISSUES PRESENTED 1

III. STATEMENT OF THE CASE 1

IV. ARGUMENT 6

 1. Standard of review regarding sufficiency of the
 evidence. 6

 2. Application of the standard of review in this case. 8

V. CONCLUSION 10

TABLE OF AUTHORITIES

WASHINGTON CASES

Quinn v. Cherry Lane Auto Plaza, Inc., 153 Wn. App. 710,
225 P.3d 266 (2009), review denied,
168 Wn.2d 1041 (2010) 7

State v. Camarillo, 115 Wn.2d 60, 794 P.2d 850 (1990)..... 7

State v. Couet, 71 Wn.2d 773, 430 P.2d 974 (1967)..... 8

State v. Jackson, 112 Wn.2d 867, 774 P.2d 1211 (1989) 8

State v. Mines, 163 Wn.2d 387, 179 P.3d 835 (2008) 7

State v. Myers, 133 Wn.2d 26, 941 P.2d 1102 (1997) 7

State v. Portee, 25 Wn.2d 246, 170 P.2d 326 (1946) 8

State v. Rich, 184 Wn.2d 897, 365 P.3d 746 (2016)..... 6, 7

State v. Witherspoon, 180 Wn.2d 875, 329 P.3d 888 (2014)..... 7

FEDERAL CASES

In re Winship, 397 U.S. 358, 90 S.Ct. 1068,
25 L.Ed.2d 368 (1970) 6

Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781,
61 L.Ed.2d 560 (1979) 7

CONSTITUTIONAL PROVISIONS

Const. art. I, § 3..... 6

U.S. Const. amend. XIV 6

I. APPELLANT'S ASSIGNMENT OF ERROR

There was insufficient evidence to establish the defendant knew the car she possessed was stolen.

II. ISSUES PRESENTED

Was the evidence and reasonable inferences from such evidence sufficient to support the jury's unanimous decision that the defendant knew the car she possessed was stolen?

III. STATEMENT OF THE CASE

Cliff Grout owns "Cliff Motors" and sells cars to the public. On December 20, 2016, Faith Welch came into his business and took a silver 2007 Pontiac G6 out for a half-hour test drive but failed to return the car. RP 303-06. A few hours later, Mr. Grout reported the car stolen and law enforcement responded and took a stolen vehicle report. RP 306. When it was stolen, the car did not have black bumpers, or a travel permit, but had a dealer plate on the rear. RP 306-07. Cliff sold both retail and wholesale cars and testified that the car was for sale for \$2,450 or \$2,950 and he had paid more than \$1,000 for the car. RP 307.

Six days later, on December 26, 2016, a citizen called Officer Tracy Ponto, who was a neighborhood resource police officer, to report suspicious activity - a man in the backyard of the property at 1528 West Jackson Avenue was spray painting a silver newer-looking car with a "rattle can" in

sub-freezing temperatures. RP 332-33. Officer Ponto had also noticed this same car when she drove past the property on her way to work that morning. RP 330. Because it was not ideal painting weather - 25 degrees outside - and the day after Christmas, coupled with the history residents at 1528 West Jackson Avenue had with stolen cars, the resource officer contacted Officer Juan Rodriguez, who was a member of the PAC team¹ and specialized in stolen vehicles investigations and operated in undercover vehicles. RP 332-33.

Officer Rodriguez responded and parked near the property. RP 405-06. Officer Rodriguez also felt it was odd that someone would be overspraying a perfectly good silver paint job with a bad paint job of a different color. RP 405, 428-29. A neighbor, who directly observed what was happening with the car, relayed the same to Officer Rodriguez over the phone. RP 408-09. The neighbor provided the license number that was on the car's magnetized dealer plates. Officer Rodriguez checked the license plate number, and the car, a silver 2007 Pontiac G6, came back as the vehicle reported stolen by Cliff Grout. RP 406. Soon thereafter, the neighbor informed the detective that a male and a female had just placed a temporary sticker on the car. RP 409. Within a minute, Officer Rodriguez

¹ Patrol Anti-Crime Team.

saw Ms. Deshazo drive away in it. RP 408-09, 439. He notified other officers in the area, who followed Ms. Deshazo to a gas station. Officers waited as Ms. Deshazo went inside the station and bought a pack of cigarettes. As she attempted to pull out of the station, the officers activated their emergency lights and ordered her to stop. RP 336, 442-45. Officer Ponto entered the alley the defendant was driving through, and with lights unmistakably flashing, attempted to stop her. RP 336. Ms. Deshazo failed to stop; instead she fishtailed, as if speeding up. RP 336. Ms. Deshazo then entered onto Shannon Street and started heading for Ash Street, still failing to stop for Officer Ponto. RP 336. Officer Ponto followed her, and as the defendant encountered Ash Street, there was a stop sign. RP 335-36. The heavier traffic of Ash Street prevented the defendant from entering that street; yet, the defendant still inched forward as if she wanted to run. RP 335-36. At that point, Officer Ponto, using her PA system, commanded the defendant to stop and the defendant complied. RP 336.

After being stopped, Ms. Deshazo informed the officers that she was taking the car back after test driving the car because the engine was knocking horribly. RP 351-52. However, officers near the vehicle did not hear it knocking when it was idling or, later, when they drove the car to legally park it. RP 351-52. With the defendant's consent, the officers inspected a journal the defendant had with her. Within that journal, the

officers found many names associated with the 1528 West Jackson address and a stolen Jeep Wrangler that had recently been recovered. RP 352-53.

Ms. Deshazo then claimed she found the car listed for sale on Craigslist and was looking to buy it for \$1,000 from a woman named Faith. RP 445. She told the officer she was unemployed, but her mother agreed to loan her the \$1,000 so she could purchase the car. RP 413. Officer Rodriguez tried to confirm the existence of the loan by calling the defendant's mother, however, the defendant did not know her own mother's phone number nor could she locate it in her personal phone. RP 413-14. He also attempted to access the Craigslist ad on his cellphone. *Id.* When he could not find it, Ms. Deshazo claimed the ad was no longer active. RP 414. Officer Rodriguez noted that the defendant had previously told him the ad did not contain a photo of the car. He also asked her what type of a car was she planning to buy, a question she was unable to answer, and was unable to provide him with any information regarding what type of make, model, or mileage of the car she was interested buying, even though she was standing right by it. RP 413-14.²

² **Prosecutor:** Okay: Did you ask Ms. Deshazo what type of car she was planning on buying?

Officer Rodriguez: Yeah. That's my first question. I mean, she's standing right by the car. Normal behavior would, you know, you ask what kind of car are you looking for and, you know, it's pretty specific. People will tell you, I responded

When asked where she had picked up the car, the defendant stated that it was at a little gray house directly on the corner of Maple and Jackson. RP 415. The defendant claimed to have never been to that residence before. RP 416. The defendant at first denied knowing Faith Welch,³ or from whom she had obtained the car. RP 415. Soon, however, the defendant provided information on how to get in touch with Faith Welch. RP 415. The defendant informed the officers that Faith lived at the 1528 West Jackson address. RP 416. When the officers advised Ms. Deshazo they were going to respond to that address, Ms. Deshazo was adamant that they should not go to that address. *Id.*

The officers went to the the 1528 West Jackson address, but Faith was not there, as she had just left. RP 419. However, Faith's father was present, along with Jimmy Jackson and seven other individuals. RP 354. Police caught Faith's father trying to hide the car tracks left in the yard by the stolen Pontiac. RP 418-20. When asked why he was trying to cover up these car tracks, he told police he just did not want his daughter, Faith, to

to this location, this is the person who I talked to, this is the year of the car, this is the make and model and mileage sometimes, condition, but she could not provide me anything about that car, even though she's standing right by it.

RP 413.

³ The person that had taken the vehicle a few days earlier from Mr. Cliff Grout.

get in trouble. RP 369. Everyone at the house knew that Faith had stolen the vehicle during a test drive. RP 419-20. Many of these people were also listed in the defendant's notebook. 356-58. Faith's father also informed the officers that to his knowledge, his daughter Faith had not sold the car to Ms. Deshazo. RP 420. Jimmy Jackson characterized his relationship with the defendant as friends, and indicated that the defendant had been to the West Jackson address a few times. RP 435.

When asked about the falsified trip permit, the defendant claimed it was already on the vehicle at the 1528 West Jackson address, even though the reporting neighbor had observed a male and female place the permit on the car only minutes before the defendant left in it. RP 415.

IV. ARGUMENT

THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE DEFENDANT'S CONVICTION AND THE JURY'S UNANIMOUS VERDICT.

1. Standard of review regarding sufficiency of the evidence.

The State bears the burden of proving all the elements of an offense beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); *State v. Rich*, 184 Wn.2d 897, 903, 365 P.3d 746 (2016); U.S. Const. amend. XIV; Const. art. I, § 3.

A sufficiency of evidence challenge is reviewed de novo. *Rich*, 184 Wn.2d at 903. The standard of review for a sufficiency of the evidence

assertion in a criminal case is whether, after viewing the evidence in a light most favorable to the State, any rational trier of fact could have found each element of the offense proven beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *Rich*, 184 Wn.2d at 903. A defendant challenging the sufficiency of the evidence admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. *State v. Witherspoon*, 180 Wn.2d 875, 883, 329 P.3d 888 (2014).

Appellate courts assume the truth of the State's evidence, *State v. Mines*, 163 Wn.2d 387, 391, 179 P.3d 835 (2008); view reasonable inferences from the evidence in the light most favorable to the State, *id.*; and deem circumstantial and direct evidence equally reliable, *State v. Myers*, 133 Wn.2d 26, 38, 941 P.2d 1102 (1997). "Appellate courts do not hear or weigh evidence, find facts, or substitute their opinions for those of the trier-of-fact. Instead, they must defer to the factual findings made by the trier-of-fact." *Quinn v. Cherry Lane Auto Plaza, Inc.*, 153 Wn. App. 710, 717, 225 P.3d 266 (2009), *review denied*, 168 Wn.2d 1041 (2010). In like manner, the credibility of witnesses and the weight of the evidence is the exclusive function of the trier of fact, and is not subject to review. *See State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990). The trier of fact may draw inferences from the evidence so long as those inferences are rationally

related to the proven facts. *State v. Jackson*, 112 Wn.2d 867, 875, 774 P.2d 1211 (1989).

2. Application of the standard of review in this case.

Defendant complains there was insufficient evidence to support her conviction at trial for possession of a stolen motor vehicle. She alleges the evidence was insufficient to show that she knew the vehicle she was driving was stolen. There was more than sufficient evidence presented at trial to support that conviction.

“[B]are possession of recently stolen property alone is not sufficient to justify a conviction.” *State v. Couet*, 71 Wn.2d 773, 775, 430 P.2d 974 (1967) (but evidence was sufficient where the defendant offered unsubstantiated and improbable story that coworker, identified only as “Bill,” loaned him the car while “Bill” was on vacation). Therefore, possession combined with “slight corroborative evidence” may justify a conviction. *State v. Portee*, 25 Wn.2d 246, 253-54, 170 P.2d 326 (1946) (quoting 4 Clark A. Nichols, *Applied Evidence Possession of Stolen Property* § 293, at 3664 (1928)). One circumstance that may corroborate the State’s claim that a defendant knew property was stolen is if the defendant offers an explanation of how she came to possess the property which a “jury could regard as improbable.” *Portee*, 25 Wn.2d at 254. It is generally held that proof of such possession, explained falsely or unreasonably, or

accompanied by other guilty circumstances, is sufficient to carry the case to the jury and to support a conviction.

Here, Ms. Deshazo stated, at the time she was initially detained, that she had never been to the 1528 West Jackson address before that date, while many of the people she knew and had listed in her notebook resided at that address, including Jimmy Jackson who characterized his relationship with the defendant as “friends,” and stated that she had been to the 1528 West Jackson address a few times. RP 356-58, 435. Ms. Deshazo claimed her mother was lending her the \$1,000 to buy the car, but she could not (or would not) even provide her mother’s phone number to enable the officers to confirm her story. The defendant knew nothing about the car she was supposedly purchasing, and was allegedly responding to a Craigslist advertisement with no photograph. Additionally, she claimed the ad had disappeared or had been taken down for unknown reasons, even though the car was not “sold.” Ms. Deshazo also claimed she was returning the car from her “test drive” because the engine was knocking horribly; however, the officers determined it was not knocking at all. The defendant did not immediately stop when the police lights were activated, but fishtailed and continued to drive to Ash Street. The defendant first denied knowing Faith Welch, but then was able to both confirm Ms. Welch’s address, and inform officers how to get in touch with her. The car had been recently and poorly

(oversprayed) that very day, yet the defendant took no notice of that and claimed that the altered trip permit was on the car before she came to take it for a test drive. Faith's father also informed the officers that to his knowledge his daughter Faith had not sold the stolen car to Ms. Deshazo. RP 420. Everyone at the house knew that Faith had stolen the vehicle during a test drive. RP 419-20. Again, many of these people were also listed in the defendant's notebook. 356-58.

When the defendant was advised that the officers were going to respond to the 1528 West Jackson address, she was adamant that the officers not go to that address. This is vexing, as anyone who had innocently taken a stolen vehicle on a test drive and was stopped by the police would undoubtedly desire to go back to show the officers from where and from whom the vehicle was acquired. The above evidence and the reasonable and rational inferences drawn therefrom more than adequately support the jury's unanimous determination of Ms. Deshazo's guilt for knowingly possessing a stolen vehicle - she offered an unsubstantiated and improbable story that was mixed with falsehoods and deceptions which a jury could regard as more than improbable.

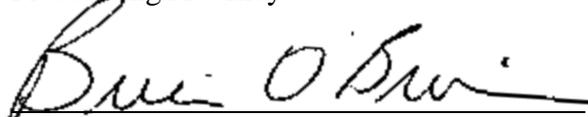
V. CONCLUSION

The evidence introduced at trial, along with the reasonable and rational inferences drawn therefrom, more than adequately support the

jury's unanimous determination of Ms. Deshazo's guilt for knowingly possessing a stolen vehicle. The judgment and sentence should be affirmed.

Dated this 10 day of May, 2018.

LAWRENCE H. HASKELL
Prosecuting Attorney

A handwritten signature in black ink, appearing to read "Brian C. O'Brien", written over a horizontal line.

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Deputy Prosecuting Attorney
Attorney for Respondent/Appellant