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Dec 21, 2015
Court of Appeals
Division I
State of Washington

NO. 73122-0-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

CHRISTINA ALEXANDRESS,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE LAURA INVEEN

BRIEF OF RESPONDENT

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A. ISSUE PRESENTED

1. At trial, the State presented a surveillance video that showed Alexandress participating in a residential burglary in which jewelry was stolen and a pawn shop ticket for the stolen jewelry that matched the identifying information on Alexandress's driver's license, as well as the testimony of the pawn shop employee who verified that the woman who pawned the stolen jewelry looked like the photograph on her driver's license. When the jury weighed this evidence and found beyond a reasonable doubt that Alexandress knowingly pawned stolen property, should this Court defer to the jury's factual determination of identity?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS.

The State charged Christina Alexandress with one count of trafficking in stolen property in the first degree in King County Superior Court. CP 1-2. The case proceeded to jury trial before the Honorable Judge Laura Inveen. 1RP 5.¹ The jury found Alexandress guilty as charged. 2RP 126.

At sentencing, the trial court found that Alexandress had an offender score of 19. CP 59, 65. Although the court expressed concern

¹ 1RP refers to the transcript of the first day of trial held on September 29, 2014.

2RP refers to the transcript of the second day of trial held on September 30, 2014, the third day of trial held on October 1, 2014, and the sentencing hearing held on January 23, 2015.

about Alexandress's "credibility problem" and "long history of multiple, multiple, similar kinds of incidents," the court exercised its discretion to sentence Alexandress to a prison-based drug offender sentencing alternative (DOSA). 2RP 151-53; CP 61. Alexandress timely appealed to this Court. CP 68.

2. SUBSTANTIVE FACTS

On the afternoon of September 21, 2011, Stephanie Romack arrived at her home in Lake Stevens, Washington and greeted her 12 year-old son. 2RP 57. She quickly realized that the jewelry box in her bedroom was missing. 2RP 58. Someone had stolen her jewelry after crawling into her home through an open living room window. 2RP 59-61. The stolen jewelry box contained several pieces of jewelry that were precious to Romack, including her wedding ring and family heirlooms given to her by her grandparents. 2RP 65. Those items have never been recovered. 2RP 65.

Romack's neighbor, Danette McCroskey, had a home security camera that faced the Romack's home. 2RP 27. She and Lake Stevens Police Sergeant Craig Valvick reviewed the security camera footage. 1RP 125; 2RP 29. The neighborhood is usually very quiet during the day, so McCroskey and Sergeant Valvick quickly located footage of two women driving up to the Romack's house in a green Subaru station wagon.

2RP 29-30, 40. One of the women went up the Romack's driveway and came back to the car a few moments later with an object in her hand. 2RP 30. As soon as she got into the car, the other woman drove away immediately. 1RP 125. The video was admitted at trial as State's Exhibit 16. 2RP 31.

The station wagon in the surveillance video had several distinguishing characteristics. 2RP 40. Specifically, the vehicle was missing its driver-side rear hub cap and a piece of body molding on the driver-side rear quarter panel. 2RP 40. A set of distinct white molding clips secured the body molding to the vehicle. 2RP 40. The two women in the video also had identifiable characteristics. One of the women had a distinctive hairstyle in which her hair was light-colored and "puffed up on top," but "short on the sides and then long down the back." 1RP 129. Her weight, body shape, and distinctive hairstyle were consistent with that of the appellant, Christina Alexandress. 1RP 135.

Six days after the burglary at the Romack's home, Lake Stevens Police Officer David Carter saw a green Subaru station wagon that matched the distinctive characteristics of the green Subaru station wagon that he had seen on the surveillance video. 2RP 40-41. He stopped the car. 2RP 40-41. The two women riding in the vehicle matched the description of the two women shown in the surveillance video. 2RP

41-42. The driver was identified as Sherryl Brongil and the passenger was identified as Alexandress. 2RP 43-44. At that time, Alexandress went by the name Christina Dress. 2RP 44; Ex. 13. Both women were arrested and photographed. 1RP 134-40.

A month later, Alexandress brought some of Stephanie Romack's jewelry to Cash America, a pawn shop on Lake City Way in Seattle, Washington. 2RP 10-17; Ex. 12, 13. The pawned items included a gold heart bracelet that Romack's father gave her for her sixteenth birthday, a braided gold bracelet that Romack's husband gave her for their first Christmas together, and a "Number 1 Mom" bracelet that Romack's son gave her for Mother's Day when he was five years old. 2RP 65-66; Ex. 12. Alexandress received \$310 for selling three items. Ex. 12.

Chelsea Matthai was the pawn shop employee who purchased the jewelry from Alexandress. 2RP 10-11; Ex. 12. Alexandress was a first-time customer at the pawn shop. 2RP 15. Matthai is more cautious with people who are pawning for the first time. 2RP 15. She spends more time with a first-time customer than with a repeat customer because more information has to be entered into the system. 2RP 15. The first-time customer must present a valid picture identification, such as a passport or driver's license. 2RP 15. The customer must look like the picture on the

identification. 2RP 10. Matthai has frequently turned away potential customers whose appearance did not match their identification. 2RP 10.

During this pawn transaction, Alexandress presented her Washington state driver's license. 2RP 11-14; Ex. 12, 13. Matthai took the information from Alexandress's driver's license and entered it into her computer system, which then filled the information into the pawn tickets. 2RP 12-14. That information included the pawn customer's name, address, birthdate, height, weight, race, phone number, and driver's license number. 2RP 12; Ex. 12. All of the identifying information from Alexandress's driver's license matched the information on the pawn tickets. 2RP 12; Ex. 12, 13. Alexandress signed the pawn ticket in Matthai's presence. 2RP 20. The transaction was completed at 1:53 pm. Ex. 12.

At trial, Alexandress presented an alibi defense through the testimony of her friend and former coworker, Joan Militello. 2RP 71, 80-81. Militello testified that, at the end of October 2011, she and Alexandress were working together six days a week, for ten to fourteen hours every day. 2RP 77-78. She said that she would have noticed if Alexandress had left work at any time during the day in late October. 2RP 79. Militello was not present at work from September 21, 2011, through the beginning of October, however. 2RP 77. For that reason, she

could not account for Alexandress's whereabouts on September 21, 2011, the day of the burglary, or on September 27, 2011, the day of the traffic stop. 2RP 77, 84-85.

The business records from Alexandress's employer contradicted Militello's testimony about Alexandress's work hours. 2RP 85-86. According to Militello's testimony, she and Alexandress were working approximately 70 to 80 hours every week. 2RP 85. Under those circumstances, Alexandress should have been paid for at least 140 to 160 hours during a two-week pay period. 2RP 85. The business records from Alexandress's employer showed that she actually worked 80 hours in the two-week pay period from October 11 to October 22, 2011. 2RP 85. For the two-week period from October 23, 2011, to November 5, 2011—the period of the pawn transaction—Alexandress worked only 43 hours. 2RP 85-86.

C. ARGUMENT

1. SUBSTANTIAL EVIDENCE SUPPORTS THE JURY'S VERDICT THAT ALEXANDRESS KNOWINGLY PAWNED STOLEN PROPERTY.

Evidence is sufficient to support a jury verdict if, viewing the evidence and all reasonable inferences from the evidence in the light most favorable to the State, the court is satisfied that a rational trier of fact could have found the essential elements of the offense beyond a

reasonable doubt. *State v. Green*, 94 Wn.2d 216, 221-22, 616 P.2d 628 (1980). The court does not weigh the persuasiveness of the evidence or evaluate the credibility of the witnesses. *State v. Killingsworth*, 166 Wn. App. 283, 287, 269 P.3d 1064 (2012). Rather, the court presumes the jury believed the State's evidence, rejected conflicting evidence, and drew reasonable inferences from the evidence in favor of the State. *State v. Lopez*, 79 Wn. App. 755, 768, 904 P.2d 1179 (1995).

A person is guilty of trafficking in stolen property in the first degree if he or she "knowingly traffics in stolen property." RCW 9A.82.050. "Traffic" is defined to mean "to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person." RCW 9A.82.010(19). "Evidence that a defendant knowingly pawns stolen goods is sufficient to support a charge of trafficking in stolen property." *State v. Hermann*, 138 Wn. App. 596, 604, 158 P.3d 96 (2007).

Alexandress asks this Court to place itself in the position of the jury and reconsider the persuasiveness of the evidence at trial. Because the appellate court defers to the jury's evaluation of the evidence, particularly on a quintessentially factual question like identity, this Court should reject the appellant's argument and affirm Alexandress's conviction.

a. The Jury Weighed The Persuasiveness Of The Evidence And Had Sufficient Evidence To Find That The State Proved Identity Beyond A Reasonable Doubt.

The State proved beyond a reasonable doubt that Alexandress was the person who pawned Stephanie Romack's stolen jewelry at Cash America on October 27, 2011. Identity is a quintessential question of fact for the jury to resolve. *State v. Hill*, 83 Wn.2d 558, 560, 520 P.2d 618 (1974) ("Identity involves a question of fact for the jury and any relevant fact, either direct or circumstantial, which would convince or tend to convince a person of ordinary judgment, in carrying on his everyday affairs, of the identity of a person should be received and evaluated."). In this case, the jury resolved that critical factual question and determined that the State proved Alexandress's identity beyond a reasonable doubt.

This is exactly the kind of factual dispute in which the appellate court defers to the trier of fact.

Surveillance video showed that Alexandress was one of the women who burglarized Stephanie Romack's home and stole Romack's jewelry on September 21, 2011. Her participation in the burglary, in and of itself, made it more likely that she was the person who pawned Romack's jewelry approximately one month later.

There is also a reasonable inference that a person possesses her own driver's license and uses that license to conduct her own affairs. But the State presented more than a common-sense inference to establish Alexandress's identity. The pawn shop employee who conducted the pawn transaction, Chelsea Matthai, reviewed Alexandress's identification to confirm that Alexandress looked like the picture on her driver's license. 2RP 10. Because Alexandress was a first-time customer, Matthai was more cautious in reviewing Alexandress's identification and spent more time with Alexandress than she would spend with a repeat customer. 2RP 15. All of Alexandress's identifying information, including birthdate, address, height, weight, eye color, and hair color, matched Alexandress's driver's license. 2RP 12; Ex. 12, 13. That evidence distinguishes this

case from *State v. Huber*, 129 Wn. App. 499, 503, 119 P.3d 388 (2005), a prosecution for bail jumping in which the State presented *no* evidence that the person on trial was the person named in the relevant court documents.

Furthermore, there was no evidence suggesting that anyone else conducted the pawn transaction. There was no evidence that Brongil had ever used Alexandress's driver's license, nor was there evidence that Brongil even possessed or had access to Alexandress's driver's license. There was no evidence that Alexandress's driver's license was stolen or missing in October 2011, or at any other time. There was no evidence that Brongil even looked like the photograph on Alexandress's license. In fact, the jury had the opportunity to review photographs of both Brongil and Alexandress to evaluate whether these women resembled one another. 1RP 134-40; 2RP 15-18.

After considering the testimony of the witnesses and the admitted exhibits, the jury concluded beyond a reasonable doubt that the pawn transaction was conducted by Alexandress. The jury credited Matthai's testimony that she compared Alexandress to the picture on her identification and confirmed that Alexandress was the person conducting the pawn transaction. Matthai's testimony, combined with the absence of evidence suggesting that anyone else used or possessed Alexandress's

driver's license, all supported the common-sense inference that Alexandress used her own driver's license to conduct a pawn transaction in her own name.

Furthermore, in reaching a verdict, the jury also considered the credibility of Alexandress's alibi defense. Alexandress's sole alibi witness, Militello, testified that Alexandress was working long hours with her nearly every day at the end of October and therefore could not have spent an afternoon in Seattle without Militello noticing her absence. Militello's testimony was conclusively refuted by the business records from Alexandress's employer. Those records showed that Alexandress did not work the significant hours that Militello claimed. Rather, Alexandress only worked 43 hours in a two-week period, which would leave plenty of time to pawn stolen jewelry in Seattle on October 27, 2011. When confronted with this discrepancy on cross-examination, Militello responded that she was "working on [her] own," and that she "did not keep track of" Alexandress's hours. 2RP 85-86. The jury had ample reason to discredit and reject Alexandress's defense.

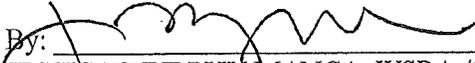
D. CONCLUSION

The jury weighed the persuasiveness of the evidence at trial, resolved the factual issue that Alexandress now challenges on appeal, and found that Alexandress knowingly pawned stolen property at Cash America on October 27, 2011. The Court should defer to the jury's evaluation of the evidence and affirm Alexandress's conviction.

DATED this 21st day of December, 2015.

Respectfully submitted,

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Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Gregory Link, the attorney for the appellant, at Greg@washapp.org, containing a copy of the Brief of Respondent, in State v. Christina Marie Alexandress, Cause No. 73122-0, 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 21 day of December, 2015.

Name:
Done in Seattle, Washington