

FILED  
DECEMBER 29, 2014  
Court of Appeals  
Division III  
State of Washington

NO. 32435-4-III  
COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION III

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**STATE OF WASHINGTON,**

Plaintiff/Respondent,

V.

**RAYMOND EDWARD CHANEY, III,**

Defendant/Appellant.

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**APPELLANT'S BRIEF**

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**STATUTES**

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## **ASSIGNMENT OF ERROR**

1. The State failed to establish, beyond a reasonable doubt, that Raymond Edward Chaney, III had knowledge that the vehicle in his possession was stolen.

## **ISSUE RELATING TO ASSIGNMENT OF ERROR**

1. Did the State establish, beyond a reasonable doubt, that Mr. Chaney actually knew the vehicle was stolen or that he had constructive knowledge of that fact?

## **STATEMENT OF CASE**

On November 23, 2013 someone stole Ervin Schadler's 1991 Suburban. It had been warming up in his driveway with a passenger inside. The passenger came into his trailer. While inside the trailer they heard the engine revving and saw the Suburban leave. They did not see who was driving the car. Mr. Schadler reported the Suburban stolen between 1:00 and 2:00 a.m. (3/12/14 RP 44, ll. 18-22; RP 45, ll. 20-21; RP 47, ll. 10-19; RP 47, l. 23 to RP 48, l. 11; RP 48, ll. 20-21; RP 49, ll. 8-9)

Jesse Chaney is the owner of Chaney Automotive. Mr. Chaney is Jesse's cousin. Mr. Chaney was at the business with the Suburban when Jesse arrived. After looking over the car to see why it would not start Jesse determined that the battery was fried. (03/12/14 RP 20, ll. 1-4; ll. 16-21; RP 21, ll. 1-3; ll. 20-24; RP 22, ll. 11-14)

Mr. Chaney told his cousin that he bought the Suburban for \$500.00. He needed to take off the wheel rims and remove the stereo which were to be returned to the owner. (03/12/14 RP 24, l. 23 to RP 25, l. 1; RP 26, ll. 9-15)

Mr. Chaney told Mark Beatty, another customer at Chaney Automotive, that he had purchased the Suburban at an auction. (03/12/14 RP 38, ll. 12-17)

Officer Howe of the Spokane Police Department was dispatched to Chaney Automotive after Jesse called law enforcement concerned about the fact that there were no plates on the Suburban. There were Montana plates on it when it was stolen. Officer Howe confirmed, using the VIN, that the Suburban belonged to Mr. Schadler. (03/12/14 RP 46, ll. 5-7; RP 51, l. 2 to RP 52, l. 1; RP 54, ll. 12-15; RP 56, ll. 1-6)

Mr. Chaney left the rims and the stereo equipment at Chaney Automotive when he left. They were still there when Officer Howe arrived. (03/12/14 RP 32, ll. 15-20; RP 34, ll. 20-24)

An Information was filed on November 26, 2013 charging Mr. Chaney with taking a motor vehicle in the first degree and possession of a stolen motor vehicle. (CP 7)

An Amended Information was filed on the morning of trial removing aggravating factors from the two (2) counts. (CP 22)

The charge of taking a motor vehicle in the first degree was dismissed upon Mr. Chaney's motion at the end of the State's case. The motion to dismiss possession of a stolen motor vehicle was denied. (03/12/14 RP 59, l. 20 to RP 64, l. 13)

The jury found Mr. Chaney guilty of possession of a stolen motor vehicle. Judgment and Sentence was entered on April 2, 2014. (CP 46; CP 58)

Mr. Chaney filed his Notice of Appeal on April 17, 2014. (CP 74)

### **SUMMARY OF ARGUMENT**

The State failed to present sufficient evidence that Mr. Chaney either had actual or constructive knowledge of the fact that the Suburban was stolen.

## ARGUMENT

“A person is guilty of possession of a stolen vehicle if he or she ... possesses a stolen motor vehicle.” RCW 9A.56.068

RCW 9A.56.140(1) defines the phrase “possessing stolen property” as meaning

... knowingly to ... possess ... stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

There is no dispute that Mr. Chaney was in possession of Mr. Schadler’s Suburban. The question is whether or not he knew that the Suburban had been stolen.

Possession is ... a relevant circumstance to be considered with other evidence tending to prove the elements of the crime. *State v. Tollett*, 71 Wn.2d 806, 431 P.2d 168 (1967).

Certainly, possession of recently stolen property calls for an explanation. An explanation that cannot be checked or rebutted is suspect by “reasonable man” standards. *State v. Douglas*, 17 Wn.2d 303, 428 P.2d 535 (1967).

*State v. Hatch*, 4 Wn. App. 691, 694, 483 P.2d 864 (1971).

The only evidence introduced at trial concerning Mr. Chaney’s knowledge that the Suburban was stolen is the slight variation between

what he told Mr. Beatty and his cousin. Otherwise, his statement that the wheel rims and stereo equipment needed to be returned to the owner is confirmed by the fact that he left those items at his cousin's automotive shop.

... [T]he elements of possession of stolen property are: (1) actual or constructive possession of stolen property, and (2) actual or constructive knowledge the property is stolen.

*State v. Jennings*, 35 Wn. App. 216, 219, 666 P.2d 381 (1983).

The State did not introduce any evidence that Mr. Chaney had actual knowledge the Suburban was stolen. Its case, if it is to be supported, must rely upon constructive knowledge.

The Suburban was operational when it was stolen. When the Suburban was viewed by Jesse at Chaney Automotive the battery was fried. This made the Suburban inoperable.

The State failed to present any evidence of what had happened to the Suburban between the time it was stolen and the time it was examined at Chaney Automotive.

Mr. Chaney's explanation that he had purchased the Suburban for \$500.00 would seem to fit either scenario as presented to Mr. Beatty and his cousin. The removal of the wheel rims and stereo equipment further supports Mr. Chaney's position.

It is not unusual for someone to buy an inoperable vehicle whether for parts or an attempt to restore it to running condition.

It is Mr. Chaney's position that the State failed to prove the "knowledge" element of the offense of possession of a stolen motor vehicle.

Knowledge is defined by RCW 9A.08.010(1)(b) as follows:

A person knows or acts knowingly or with knowledge when:

- (i) he is aware of a fact, facts or circumstances or result described by a statute defining an offense; or
- (ii) he has information which would lead a reasonable man in the same situation to believe that facts exist which facts are described by a statute defining an offense.

The State did not present any evidence that Mr. Chaney actually knew the motor vehicle was stolen. The State's case pivots on the two (2) statements made by Mr. Chaney while at Chaney Automotive.

The condition of the Suburban, its age, and the fact that the wheel rims and stereo equipment were being removed for return to the owner, are all indicative of a lack of knowledge that the Suburban was stolen.

The State failed to present sufficient evidence of either actual knowledge or constructive knowledge so as to support the charge.

“... [T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any rational trier of fact* could have found the essential elements of the crime *beyond a reasonable doubt*. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed.2d 560 (2979).

*State v. Green*, 94 Wn.2d 216, 221, 616 P.2d 628 (1980).

Based upon the facts presented to the jury, no rational *trier of fact* could have found that Mr. Chaney knew that the Suburban was stolen.

## CONCLUSION

The State failed to present sufficient evidence to establish each and every element of the crime of possession of a stolen motor vehicle. Mr. Chaney’s conviction should be reversed and the case dismissed.

DATED this 29th day of December, 2014.

Respectfully submitted,

s/ Dennis W. Morgan

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**DIVISION III**

**STATE OF WASHINGTON**

STATE OF WASHINGTON,	)	
	)	SPOKANE COUNTY
Plaintiff,	)	NO. 13 1 04125 2
Respondent,	)	
	)	
v.	)	<b>CERTIFICATE OF SERVICE</b>
	)	
RAYMOND EDWARD CHANEY, III,	)	
	)	
Defendant,	)	
Appellant.	)	
	)	

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I certify under penalty of perjury under the laws of the State of Washington that on this 29th day of December, 2014, I caused a true and correct copy of the *APPELLANT'S BRIEF* to be served on:

COURT OF APPEALS, DIVISION III  
Attn: Renee Townsley, Clerk  
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E-FILE

CERTIFICATE OF SERVICE

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