ARKANSAS COURT OF APPEALS

DIVISION II

No. CACR 08-874

RHANDA RACHAEL RAMEY, APPELLANT	**Opinion Delivered** 11 FEBRUARY 2009
V.	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, [NO. CR 2007-4628]
	THE HONORABLE JOHN W. LANGSTON, JUDGE
STATE OF ARKANSAS, APPELLEE	AFFIRMED

D.P. MARSHALL JR., Judge

After a bench trial, the circuit court convicted Rhanda Ramey of theft by receiving a 1994 black Honda Civic. The court later sentenced her to five years' probation and ordered her to pay a $500 fine, court costs, and $225 in restitution. Challenging the sufficiency of the evidence and arguing the "choice of evils" defense, Ramey appeals.

The State had to establish that Ramey received, retained, or disposed of the Civic, knowing that the car was stolen or having good reason to believe it was. Ark. Code Ann. § 5-36-106(a) (Repl. 2006). The State presented six witnesses; they testified to the following facts. In October 2007, Ramey was at a Jacksonville laundromat. After a fight with a man, she got into and drove away alone in a Honda Civic. Police arrested her in possession of the car shortly thereafter. Ramey possessed

the keys to the car before the fight began. The VIN number of the Civic matched that of a stolen vehicle, but the license plate matched another vehicle. Ramey told an officer that the Civic belonged to her friend Amber, but later said her friend's name was Amanda. Ramey gave different stories about Amber's/Amanda's location, and police were unable to find such a person. None of the other people at the laundromat saw another woman with Ramey. Ramey was unable to provide a last name or any contact information for her friend. The Civic's owner paid $2,495 for the car in 2007. It was stolen in October 2007, the same month in which Ramey was arrested in it.

Ramey was the only witness for the defense. She testified that Amber/Amanda told her that she had purchased the Civic for $500, which Ramey thought at the time was "kind of felonious."

On appeal, we view the evidence in the light most favorable to the State. *Baughman v. State*, 353 Ark. 1, 5, 110 S.W.3d 740, 742 (2003). We affirm if substantial evidence supports the judgment. *Ibid.* We "[do] not weigh the evidence presented at trial, as that is a matter for the fact-finder, nor do we assess the credibility of the witnesses." *Woods v. State*, 363 Ark. 272, 275, 213 S.W.3d 627, 630 (2005).

The evidence here is substantial. Ramey possessed the recently stolen Civic. In light of all the State's evidence, the fact-finder was entitled to conclude that the explanation Ramey gave police officers was improbable. *Eaton v. State*, 98 Ark. App. 39, 46, 249 S.W.3d 812, 817 (2007). And absent her explanation, the circumstances

allowed the reasonable inference that Ramey knew, or had reason to know, that the car was stolen. *Eaton*, 98 Ark. App. at 45, 249 S.W.3d at 816–17; Ark. Code Ann. § 5-36-106(a).

Ramey invoked the "choice of evils" defense at trial and does so again on appeal. Ark. Code Ann. § 5-2-604 (Repl. 2006). She argues that she was forced to flee in her friend's car to escape the confrontation with her ex-boyfriend. Multiple witnesses corroborated Ramey's account of a very violent confrontation. Those witnesses also testified that in the heat of the confrontation, Ramey, already possessing the keys, left the scene alone in the Civic. But the "choice of evils" defense is a matter for the finder of facts in deciding innocence or guilt. We cannot say that the proof was so overwhelmingly in favor of Ramey's explanation that she was entitled to acquittal as a matter of law. Instead, this credibility-laden defense presented disputed issues of fact for the circuit court. *Polk v. State*, 329 Ark. 174, 178, 947 S.W.2d 758, 760 (1997).

Affirmed.

KINARD and GLOVER, JJ., agree.