

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR11-521

CHARLES E. PRUITT, JR.
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered December 7, 2011

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
FIRST DIVISION [CR-2009-1127]

HONORABLE MARION A.
HUMPHREY, JUDGE

AFFIRMED

DAVID M. GLOVER, Judge

Appellant Charles Pruitt, Jr., was charged with the offense of breaking or entering, a Class D felony. A jury found him guilty of this offense, and the trial court sentenced him as a habitual offender to fifteen years in the Arkansas Department of Correction and ordered him to pay \$150 restitution. He argues on appeal that the trial court erred in denying his motion for directed verdict because there was insufficient evidence that he had the criminal intent necessary to commit breaking or entering. We affirm.

At trial, Officer Jeff King of the Little Rock Police Department testified that early on the morning of March 6, 2009, he was flagged down by a citizen and advised of a possible vehicle break-in at Seventeenth and Park streets. When King investigated, he observed a red Mustang with a broken window, and he found Pruitt in the vehicle behind the steering wheel with a screwdriver in his hand. When King asked Pruitt if he knew



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whose vehicle it was, Pruitt said that he did not know. King searched Pruitt, and he found a car-stereo faceplate in Pruitt's front pocket; King also found a paint scraper, a knife, a meat cleaver, and the screwdriver in the vehicle. King stated that the stereo faceplate was returned to its owner that night after the owner identified it. Detective Clarence Davis, a detective in the auto-theft division of the Little Rock Police Department, testified that he had seen screwdrivers used as a "jimmy" to break into a vehicle, and he imagined that a paint scraper and a butcher knife could be used to pry into things such as a radio in a car.

Zachariah Reeves testified that he was the owner of the Mustang; that the driver's side window was "smashed" out in March 2009; and that he did not give Pruitt permission to be in his vehicle. He also testified that he did not give anyone permission to have the faceplate of his vehicle's CD player, and he identified the faceplate as his property that had been taken from the vehicle.

After the State rested its case, the defense moved for a directed verdict, arguing that there was not sufficient evidence presented on the element of purpose of committing theft of property. This motion was denied.

Pruitt was the only witness for the defense. He testified that he and his wife had an argument; that he was drunk; and that he left his house. He admitted that he broke into Reeves's vehicle by breaking the window, but he explained that he had to find somewhere to go and could not go home, so he broke into the Mustang and went to sleep. He said that he had been lying down about thirty minutes when Officer King



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arrived to investigate. Pruitt denied having the car-stereo faceplate in his possession and testified that he did not enter the car with the intent to steal anything from the vehicle, although he admitted that the screwdriver and paint scraper found in the vehicle belonged to him. He renewed his motion for directed verdict at the close of the evidence; it was again denied. He now brings this appeal.

A motion for directed verdict is a challenge to the sufficiency of the evidence. *Simmons v. State*, 89 Ark. App. 34, 199 S.W.3d 711 (2004). To determine if evidence is sufficient, there must be substantial evidence, direct or circumstantial, to support the verdict. *Id.* Substantial evidence is that which is of sufficient force and character to compel a conclusion one way or the other with reasonable certainty, without speculation or conjecture. *Mayo v. State*, 70 Ark. App. 453, 20 S.W.3d 419 (2000). Evidence of guilt is not less because it is circumstantial; the evidence must exclude every other reasonable hypothesis other than the guilt of the accused, and that is a question for the trier of fact to decide. *Ross v. State*, 346 Ark. 225, 57 S.W.3d 152 (2001). In reviewing a challenge to the sufficiency of the evidence, this court views the evidence in the light most favorable to the State and considers only the evidence that supports the conviction. *Simmons, supra*.

Arkansas Code Annotated section 5-39-202(a)(1) (Supp. 2011) provides, in pertinent part, that a person commits the offense of breaking or entering if, for the purpose of committing a theft or felony, he breaks or enters into any vehicle. "A person acts purposely with respect to his . . . conduct or a result of his . . . conduct when it is the



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person's conscious object to engage in conduct of that nature or to cause the result." Ark. Code Ann. § 5-2-202(1) (Repl. 2006).

Intent can rarely be proved by direct evidence, but may be inferred from the circumstances of the crime, and jurors may draw upon common knowledge and experience to infer intent. *Jefferson v. State*, 86 Ark. App. 325, 185 S.W.3d 114 (2004). On appeal, Pruitt argues that the fact that he testified that he did not enter the vehicle with the intent to steal anything but instead to have a place to sleep established the lack of his intent to commit a theft or felony. However, this argument overlooks the fact that Officer King testified that he found the car-stereo faceplate in Pruitt's front pocket as well as a screwdriver and paint scraper belonging to Pruitt in the vehicle. The jury was not required to believe Pruitt, as he was the party most interested in the outcome of the case. *Springston v. State*, 61 Ark. App. 36, 962 S.W.2d 836 (1998). Furthermore, a jury is permitted to consider and to give weight to any false and improbable statements made by an accused in explaining suspicious circumstances. *Id.* It is the responsibility of the jury to weigh the credibility of the witnesses and to resolve any conflicts or inconsistencies in the evidence. *Williams v. State*, 2011 Ark. 432, 385 S.W.3d 157. Viewing the evidence in the light most favorable to the State, we hold that there is sufficient evidence to support Pruitt's conviction for breaking or entering.

Affirmed.

HART and MARTIN, JJ., agree.

William R. Simpson, Jr., Public Defender, by: *Margaret Egan*, Deputy Public Defender, for appellant.

Dustin McDaniel, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., for appellee.