

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR12-26

WILLIE MIXON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 20, 2012

APPEAL FROM THE MILLER
COUNTY CIRCUIT COURT
[NO. CR-10-407-1]

HONORABLE JOE E. GRIFFIN,
JUDGE

AFFIRMED

RITA W. GRUBER, Judge

Appellant Willie Mixon was convicted by a jury of three counts of theft of property (credit cards) under Ark. Code Ann. § 5-36-103 (Repl. 2006) and sentenced to concurrent terms of thirty years' imprisonment on each count. He argues on appeal that the trial court erred in denying his motion for a directed verdict. We find no error and affirm his convictions.

These are the relevant facts. Manuel Garcia's home was burglarized on the night of July 14, 2010. Garcia testified that his phone, wallet, and keys—which he placed beside his bed before he went to sleep—were missing when he woke up. He also discovered an open window and footprints outside the window. He said that he heard a noise during the night but thought it was a dream.

Warran Johnson and Michael Brown, who were under arrest for unrelated crimes at



Cite as 2012 Ark. App. 398

the time of the burglary, told police to “look to” appellant for the burglary and told them where appellant “stayed.” Following this lead, on July 15, 2010, police entered a vacant house located at 418 East Fourteenth Street in Texarkana, Arkansas, described to police by Johnson and Brown as the house being used by appellant. The vacant house was next door to the house in which appellant claimed to have been living. The back door on the vacant house had a new deadbolt lock on it, so the police entered through a broken window. They discovered Garcia’s wallet, credit cards, and checkbook in the house. They also found paperwork with appellant’s name on it, including an envelope addressed to him, a sign-in sheet with his name on the top of it, and other papers. One of the documents contained a photo of appellant.

The police then went next door and asked the neighbor, Dorothy Hull, if anyone had been staying in the vacant house. Ms. Hull told the officers that a black male had been staying there and using the back door. When shown the photograph of appellant, Ms. Hull identified him as the person staying in the house.

After his arrest, appellant denied that he had been living in the vacant house and denied having keys to the house. But two identical keys that fit the deadbolt lock were found in appellant’s property in the jail. The keys were with him when he was arrested.

A motion for a directed verdict is a challenge to the sufficiency of the evidence. *Jackson v. State*, 375 Ark. 321, 290 S.W.3d 574 (2009). The test for determining sufficiency of the evidence is whether there is substantial evidence, direct or circumstantial, to support



Cite as 2012 Ark. App. 398

the verdict. *Johnson v. State*, 337 Ark. 196, 987 S.W.2d 694 (1999). Evidence is substantial if it is forceful enough to compel reasonable minds to reach a conclusion and pass beyond suspicion and conjecture. *Harmon v. State*, 340 Ark. 18, 22, 8 S.W.3d 472, 474 (2000). On appeal, we consider only the evidence that supports the verdict, viewing the evidence in the light most favorable to the State. *LeFever v. State*, 91 Ark. App. 86, 208 S.W.3d 812 (2005). We do not weigh the evidence presented at trial, as that is a matter for the fact-finder. *Freeman v. State*, 331 Ark. 130, 959 S.W.2d 400 (1998). Witness credibility is an issue for the fact-finder, who is free to believe all or a portion of any witness's testimony and whose duty it is to resolve questions of conflicting testimony and inconsistent evidence. *LeFever*, 91 Ark. App. at 89, 208 S.W.3d at 815.

A person commits theft of property if he takes or exercises unauthorized control over the property of another person with the purpose of depriving the owner of the property. Ark. Code Ann. § 5-36-103. Appellant argues that there is no substantial evidence that he exercised control over Garcia's credit cards because the State failed to tie him to the vacant house where the credit cards were found. We hold that substantial evidence supports the jury's verdict. Both Brown and Johnson testified that appellant had been staying at the vacant house. The neighbor of the vacant house, Ms. Hull, identified appellant as the man who had been staying in the house both in a photograph taken from the vacant house and in the courtroom. Police found documents with appellant's name and his picture in the house. Finally, although he denied that he had keys to the house when questioned by the police,



Cite as 2012 Ark. App. 398

appellant had two keys with him that fit the deadbolt lock that had been installed on the back door of the house. Viewing the evidence in the light most favorable to the State, we hold that it is substantial.

Affirmed.

PITTMAN and HOOFMAN, JJ., agree.

Phillip A. McGough, P.A., by: *Phillip A. McGough*, for appellant.

Dustin McDaniel, Att’y Gen., by: *David R. Raupp, Ass’t Att’y Gen.*, for appellee.