

# ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR 08-1439

PHILLIP GRAY

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** SEPTEMBER 9, 2009

APPEAL FROM THE ASHLEY  
COUNTY CIRCUIT COURT  
[NO. CR-2007-226-4]

HONORABLE DON GLOVER,  
JUDGE

AFFIRMED

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**M. MICHAEL KINARD, Judge**

Appellant, Phillip Gray, appeals from his conviction by an Ashley County jury on a charge of theft of property with a value between \$500 and \$2500. On appeal, appellant argues that the State failed to produce substantial evidence as to the value of the property and that the State failed to produce substantial evidence that he acted with the requisite intent. We affirm.

The property in question is a trailer. Steven Langford testified that he purchased the trailer for his mother on September 16, 2004. The bill of sale from Langford's purchase reflects a purchase price of \$1000. Langford testified that his mother is the owner of the property in Ashley County upon which the trailer was placed and that he is the caretaker of the property. Langford further testified that he did not authorize anyone to remove the trailer from his mother's property. Langford stated that the last time he was on his mother's property prior to the trailer being taken, the trailer was in substantially the same condition as it was

when he purchased it.

Deputy Fred Hogan with the Ashley County Sheriff's Department testified that he drove past Langford's mother's property on September 30, 2007, and the trailer was on the property. Deputy Hogan stated that he went by the property again on October 3, 2007, and the trailer was not on the property. There was an old tarp that had been covering the trailer that was lying on the ground where the trailer had been located. Deputy Hogan testified that he found a piece of a Master Lock lying on the ground in the area and that the lock looked as though it had been cut through with bolt cutters.

The State introduced a statement from appellant. In his statement, appellant stated that in February 2007, a man named Harvey Poe came to his house in an attempt to sell him pills. Poe asked appellant if he wanted to buy a trailer. After looking at the camper, appellant agreed to buy the camper for \$1000. Appellant paid Poe \$700 of the purchase price before Poe died in September 2007. After Poe died, appellant decided to take the camper because he thought Poe's family would take the camper and he would lose his \$700. Appellant took the camper to his house and parked it there.

At the close of the State's evidence and again at the close of all of the evidence, appellant moved for directed verdict on the basis that the State failed to prove the value of the trailer and failed to prove that appellant acted with the requisite intent. The trial court denied both motions. Following the guilt phase of the trial, the jury returned a verdict of guilty and sentenced appellant to 144 months' imprisonment in the Department of Correction as a habitual offender. This timely appeal followed.

Appellant is appealing from the denial of his motions for directed verdict. A motion for a directed verdict is a challenge to the sufficiency of the evidence. *Tomboli v. State*, 100 Ark. App. 355, 359, 268 S.W.3d 918, 920-21 (2007). The test for determining sufficiency of the evidence is whether the verdict is supported by substantial evidence. *Id.* Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture. *Id.* Only evidence supporting the verdict will be considered. *Id.* When a defendant makes a challenge to the sufficiency of the evidence on appeal, the appellate court views the evidence in the light most favorable to the State. *Id.*

Appellant's first argument on appeal is that the State failed to produce substantial evidence that the trailer had a value of more than \$500 and less than \$2500. We disagree. Steven Langford testified that he paid \$1000 for the trailer in 2004. Langford also testified that, at the time it was taken, the trailer was in substantially the same condition as it was when he purchased it. Although the preferred method of establishing value is through expert testimony, the price paid by an owner can be used to determine market value of property when the purchase is not too remote in time and bears a reasonable relation to the present value. *Williams v. State*, 65 Ark. App. 176, 182, 986 S.W.2d 123, 127 (1999). In addition, appellant's statement to police indicated that he had negotiated to buy the trailer for \$1000 in February 2007. This evidence was sufficient to allow the jury to conclude that the trailer had a value greater than \$500 and less than \$2500.

Appellant's second argument on appeal is that the State failed to prove that he acted with the requisite intent. A person commits the offense of theft of property if the person

knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another person, with the purpose of depriving the owner of the property. Ark. Code Ann. § 5-36-103 (Supp. 2007). Appellant argues that the State failed to produce substantial evidence indicating that he knowingly took or exercised unauthorized control over the property of another person with the purpose of depriving the owner of the property. We disagree.

Appellant admitted in his statement to the police that he had the trailer in his possession. Steven Langford testified that no one had permission to remove the trailer from his mother's property. The unexplained, unsatisfactory, or improbable explanation for possession of recently stolen property may be considered as evidence of guilt of theft of property. See *Ward v. State*, 280 Ark. 353, 356, 658 S.W.2d 379, 381 (1983). Although appellant argued that he took the trailer from a third party who represented himself as the true owner of the property, the jury, as factfinder, was not required to believe appellant's explanation of the events. *Brown v. State*, 35 Ark. App. 156, 160, 814 S.W.2d 918, 921 (1991). Regardless of the circumstances under which appellant came into possession of the trailer, the evidence submitted to the jury showed that appellant was, at no time, in lawful possession of the trailer. The evidence was sufficient for the jury to conclude that appellant possessed the property with the intent to deprive the owner of the property.

Affirmed.

HENRY and BAKER, JJ., agree.