

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR09-865

LYNDALL ANTHONY GOLDEN
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered April 21, 2010

APPEAL FROM THE DREW
COUNTY CIRCUIT COURT
[NO. CR-08-0170-1]

HONORABLE SAMUEL B. POPE,
JUDGE

AFFIRMED

WAYMOND M. BROWN, Judge

A Drew County jury convicted Lyndall Golden of Class B felony theft of property. Golden was sentenced as a habitual offender to forty years' imprisonment. He argues on appeal that the evidence was insufficient to support his conviction. We affirm.

In determining the sufficiency of the evidence, we view the evidence in the light most favorable to the State and affirm if substantial evidence supports the conviction.¹ Circumstantial evidence may provide a basis to support a conviction, but it must be consistent with the defendant's guilt and inconsistent with any other reasonable conclusion.² It is a question for the jury to determine whether the evidence excludes every other reasonable

¹*Mathis v. State*, 2009 Ark. App. 181, 314 S.W.3d 280.

²*Id.*

hypothesis.³ If the jury believes from the circumstances introduced into evidence that the defendant is guilty beyond a reasonable doubt, it is the jury's duty to find the defendant guilty.⁴ However, on appeal, we must determine whether the jury resorted to speculation or conjecture in reaching its decision.⁵

The facts viewed in the light most favorable to the State are these. Golden entered into a verbal rental agreement with Julius Wilbanks sometime before January 1, 2008. Golden was unemployed and performed odd jobs for Wilbanks to cover rent and other household expenses. Golden would also borrow money from Wilbanks on occasion. Wilbanks and his wife went out of town from July 17, 2008 to July 21, 2008. Wilbanks informed Golden that he would be gone for a few days and that he wanted Golden to have the truck he was restoring for Wilbanks completed by the time he returned. Wilbanks returned home on Sunday. On Wednesday Wilbanks noticed that his house had been burglarized. Among the items missing were three lock boxes, which contained \$11,000 in cash, \$20,000 in stock certificates, and personal documentation. Jewelry valued between \$4,000 to \$5,000 had also been stolen from Wilbanks's residence. After discovering the theft, Wilbanks went over to Golden's to see if he knew anything about the theft of his residence. Wilbanks found Golden's residence unlocked and in such a state that he thought "they abandoned it." Wilbanks then contacted the police and reported the theft.

³*Green v. State*, 8 Ark. App. 148, 649 S.W.2d 190 (1983).

⁴*Id.*

⁵*Mathis, supra.*

Golden, his wife, his daughter, and his daughter's boyfriend left for Fayetteville one night following the theft of Wilbanks's residence. Even though Golden was unemployed, he purchased a camper for \$1,500 while in Fayetteville. Golden's daughter, Ashley, also bought a vehicle; however, it is not clear who actually paid for the vehicle. The parties went to Branson, Missouri, before returning to Arkansas. Golden was later arrested; at the time of his arrest, he was in possession of a piece of jewelry identified by Wilbanks's wife as one of her stolen items. Golden was interviewed by Officer Rickey Rausch on three separate occasions. In the first interview, Golden made a statement about the \$11,000 in cash before officers informed him of the amount of cash missing from the Wilbanks's residence. At the second interview, Golden admitted that a piece of the stolen jewelry was found on him but he later denied it in the same interview. During the final interview, Golden informed Officer Rausch that the lock boxes were "thrown out on the way to Branson." He also gave phone numbers to some pawn shops in Branson where the jewelry might be located. However, Officer Rausch was unable to locate any of the shops based upon the information Golden gave him.

In order to convict Golden of theft of property, the State had to prove that Golden knowingly took or exercised unauthorized control over Wilbanks's property with the purpose of depriving Wilbanks of the property.⁶ Considered as a whole, the circumstantial evidence of theft was substantial. It satisfied the statutory requirements and did not leave the fact-finder to speculation or conjecture. Therefore, we affirm Golden's theft conviction.

⁶Ark. Code Ann. § 5-36-103(a)(1) (Supp. 2009).

Cite as 2010 Ark. App. 350

For the theft to be a Class B felony, the State had to prove that the property's value was \$2,500 or more.⁷ Golden attempts to argue that the evidence was not sufficient as to the element of value. A close look at Golden's motion for directed verdict shows that this argument is not preserved for appellate review. However, even if we reached the merits concerning the value of the stolen items, we would affirm. Value may be sufficiently established by circumstances that clearly show a value in excess of the statutory requirement.⁸ Here, \$11,000 in cash, over \$20,000 in stock certificates, and \$4,000 to \$5,000 in jewelry were taken from Wilbanks's residence. This clearly established a value in excess of the statutory requirement. Accordingly, we affirm.

Affirmed.

GLADWIN and HENRY, JJ., agree.

⁷Ark. Code Ann. § 5-36-103(b)(1)(A) (Supp. 2009).

⁸*Walker v. State*, 2010 Ark. App. 63.