

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

KENT, SC.

SUPERIOR COURT

(FILED: AUGUST 19, 2014)

STATE OF RHODE ISLAND

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VS.

Case No. K2/2013-0467A

JOHN BENOIT

DECISION

RUBINE, J. Before the Court is John Benoit's (Defendant) motion for a new trial. A jury found Defendant guilty of entering an apartment with intent to commit larceny in violation of G.L. 1956 § 11-8-3. Defendant's motion contends that the evidence was insufficient to sustain the conviction, and that the verdict was against the fair preponderance of the evidence. The Court instructed the jury that in order to find Defendant guilty of this offense, they had to find that the State proved beyond a reasonable doubt that Defendant had the intent to commit larceny at the time he entered the complaining witness' apartment.

I

Facts

The facts proven at trial are as follows: At approximately 10:00 a.m. on April 5, 2013, Christopher Gervais, the complaining witness, was sleeping in his bedroom. He woke up when he heard the distinct sound of his bedroom door being opened. He observed Defendant remove money from his wallet, which was sitting either on top of his dresser or in a drawer in the dresser. Mr. Gervais observed Defendant counting the money. After he confronted the Defendant, the Defendant left the apartment, and Mr. Gervais called the police. When the police arrived, Mr. Gervais was able to give a complete description of the Defendant. The police observed a person fitting that description sitting in a construction vehicle outside the apartment. The apartment complex in which Mr. Gervais' apartment is situated is owned by the Picerne Company (Picerne). According to Mr. Gervais, Picerne had hired a contractor to repair or replace windows and sliding glass doors in each apartment unit in the complex. Mr. Gervais testified that shortly before the date in question, he had received a note posted outside his unit

indicating that on the day in question the contractor would be entering his apartment to complete work on the sliding glass door.

II

Standard of Review

It is textbook law that when considering a motion for new trial, the Court acts as the hypothetical thirteenth juror and exercises independent judgment as to the credibility of witnesses and the weight to be given to any evidence. “If, after conducting [such] independent review, the trial justice agrees with the jury’s verdict or if the evidence is such that reasonable minds could differ as to the outcome, the motion for a new trial should be denied.” State v. Kelly, 20 A.3d 655, 659 (R.I. 2011); see also State v. Gomez, 848 A.2d 221, 234 (R.I. 2004). ““If, however, the trial justice finds that the state has failed to sustain its burden of proof, a new trial must be ordered.”” Id. (quoting State v. Bergevine, 942 A.2d 974, 980 (R.I. 2008)).

III

Analysis

The State presented three witnesses, including complaining witness Mr. Gervais and the two responding police officers. One of the responding police officers testified that Defendant was arrested based on the description provided by Mr. Gervais. He also testified that Defendant admitted that he took cash from the apartment, but indicated he had returned what he took. This conviction rested primarily on the credibility of Mr. Gervais which, if believed by the jury, was sufficient to support a finding that Defendant had the requisite intent to commit larceny at the time he entered the apartment. Mr. Gervais testified that, based upon the notice he received from Picerne (the landlord and Defendant’s employer), a contractor needed only to have access to the sliding glass door (which is not inside the bedroom). According to Mr. Gervais, the work on the bedroom windows was complete, and Picerne’s notice indicated the workers only needed access to the sliding glass door on the date in question. Notwithstanding Defendant’s knowledge of the location in the apartment where work was to be done that morning, Defendant entered Mr. Gervais’ apartment between 9:00 a.m. and 10:00 a.m. with a key provided by the landlord and thereafter, opened the bedroom door, going immediately to the dresser where Mr. Gervais’ wallet

and cash were located. The opening of the bedroom door awoke Mr. Gervais, who testified that he observed Defendant move immediately to the dresser without acting as though he entered the bedroom to repair the windows therein. After Mr. Gervais observed Defendant open the wallet and count the money removed from the wallet, Defendant apologetically stated to Mr. Gervais that “times are tough.” Mr. Gervais called the Warwick police. After Defendant left the apartment, he was confronted by Officer Michalides, who testified that Defendant admitted to him that he had taken the money, but that he returned it.

There is credible testimony that could lead a jury to conclude, beyond a reasonable doubt, that Defendant entered Mr. Gervais’ apartment with the intent to commit larceny. This includes Mr. Gervais’ testimony that there was no work-related need for Defendant to enter the bedroom, Defendant’s movement immediately to the dresser without attending to any work on the bedroom windows, and his statement to Mr. Gervais indicating his need for money as the motive for removing cash from Mr. Gervais’ wallet. Defendant also indicated to the police that he had taken the money but returned it. Mr. Gervais was an entirely credible witness who was understandably startled by hearing Defendant enter the bedroom while he was sleeping. He had a clear view from his bed when he awoke. His description of what he observed was straight forward and entirely believable, as was the testimony of the two police officers who testified. Mr. Gervais testified with the aid of a picture, depicting the floor plan of the apartment. This picture corroborated his testimony that it was unnecessary to enter the bedroom in order to have access to the sliding glass door in the rear of the apartment. At least one of the officers referred to Defendant’s admission outside the apartment that he had taken money from the apartment of Mr. Gervais.

On the basis of the testimony related above, there was ample, credible evidence for the jury to have considered such facts as creating an inference of Defendant’s intent to commit larceny when he entered Mr. Gervais’ apartment. Defendant acted in a manner entirely consistent with such intent. The jury’s apparent conclusion was that there was sufficient circumstantial evidence of Defendant’s intent to commit larceny when he entered Mr. Gervais’ apartment, and that the State had proven such intent beyond a reasonable doubt. The jury’s determination that Defendant was guilty of the offense charged is, in the Court’s opinion, entirely supported by the credible evidence giving rise to an inference of intent sufficient to find

Defendant guilty as charged. Had the Court been the fact finder in this case, it would have found Defendant guilty. The Court believes that the jury understood the Court's instruction on circumstantial evidence and the concept of inference. The jury was also told it is virtually impossible to prove intent by direct evidence, but that they may consider all of the facts and circumstances presented to determine if intent had been proven by way of circumstantial or indirect evidence. The jury apparently considered the evidence in light of the Court's instructions, and properly found from all of the credible testimony that Defendant had the requisite intent to commit larceny when he entered the apartment of Mr. Gervais. Since the nature of Defendant's work was to repair all of the windows and sliding doors at the Cowesett Hills Apartments, it is not inconsistent with a finding of intent to commit larceny, even if Defendant entered the apartment with the simultaneous intent to perform the work he was hired to complete. In other words, the Defendant could simultaneously have had the intent to complete his work and intent to commit larceny.

This Court finds the State's witnesses to be entirely credible. Given the reliability of Mr. Gervais' eyewitness observations of the Defendant's actions in his apartment and bedroom and Mr. Gervais' testimony regarding the note left by Picerne days before the incident, this Court agrees with the jury's conclusion that the State met its burden of proving intent to commit larceny beyond a reasonable doubt. The fact that Defendant disagrees with the credibility determinations and the evaluation of circumstantial evidence is insufficient to justify granting a motion for new trial. See State v. Guerra, 12 A.3d 759, 766 (R.I. 2011) (where the Supreme Court applied the standard applicable to a motion for new trial in the context of a conviction for entering a building with intent to commit larceny and found the circumstantial evidence of intent sufficient to uphold the jury's verdict). The jury's verdict is consistent with the credible evidence and does not result in an injustice to the Defendant. At the close of the State's case, Defendant moved for judgment of acquittal. The Court denied the motion at that time because the Court believed the State introduced credible evidence sufficient to establish Defendant's intent and guilt beyond a reasonable doubt. It is that evidence that the jury considered in its determination of the guilt of the Defendant.

IV

Conclusion

Based on the foregoing analysis, Defendant's motion for a new trial is denied. See Kelly, 20 A.3d at 659; see also Gomez, 848 A.2d at 234.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: State of Rhode Island v. John Benoit

CASE NO: K2/2013-0467A

COURT: Kent County Superior Court

DATE DECISION FILED: August 19, 2014

JUSTICE/MAGISTRATE: Rubine, J.

ATTORNEYS:

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For Defendant: Daniel E. Ciora, Esq.