DIVISION IV

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

CACR05-1156

August 30, 2006

APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT
[NO. CR 04-3917]

HON. MARION A. HUMPHREY, JUDGE

AFFIRMED

EMMITT WHITE, JR.
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

The appellant in this criminal case was charged with theft by receiving a 1997 Dodge pickup truck. After a bench trial he was convicted of that offense and sentenced as a habitual offender to five years' imprisonment. For reversal, appellant contends that the evidence was insufficient because the owner of the truck did not testify. We affirm.

When reviewing the sufficiency of the evidence in a criminal case, we view the evidence in the light most favorable to the State, considering only the evidence that supports the verdict, and we will affirm if there is substantial evidence to support the jury's conclusion. *Burmingham v. State*, 342 Ark. 95, 27 S.W.3d 351 (2000). To be substantial, the evidence must be forceful enough to compel reasonable minds to reach a conclusion one way or the other and permit the trier of fact to reach a conclusion without having to resort to speculation or conjecture. *Benson v. State*, 357 Ark. 43, 160 S.W.3d 341 (2004).

Viewed in that light, the record shows that the pickup truck was stolen from the automobile dealership lot of Dallas Miller in late April of 2004. Miller was an experienced auto dealer and the truck was worth $10,000 when it was stolen. Miller filed an insurance

claim for the loss and was paid $8,000 by Southern Pioneer Insurance Company a month or two after the theft. Appellant was found in possession of the truck on July 9, 2004. When his ownership of the truck was challenged by a friend of Mr. Miller, Mr. Vardaman, appellant offered Mr. Vardaman the keys to the truck. After police arrived, it was discovered that the truck bore fictitious license plates that appellant admitted affixing thereto. Appellant had no title or proof of insurance on the truck. Appellant stated that he bought the truck for $2,000 from "a white guy" that he did not know by name. Appellant's wife was called and came to the scene, where she produced a document dated May 10, 2004, handwritten on a sheet of notebook paper, that purported to be a bill of sale of a 1996 Dodge pickup truck by "Limmy Crame" for $350. The purchaser was not mentioned on the document. In a subsequent interview with police appellant admitted that he knew that the price he paid for the truck was "too good to be true," and stated that he believed that the truck was actually worth at least four or five thousand dollars.

A person commits the offense of theft by receiving if he receives, retains, or disposes of stolen property of another person, knowing that it was stolen or having good reason to believe it was stolen. Ark. Code Ann. § 5-36-106(a) (Repl. 2006). Appellant argues that there is no substantial evidence to show that the truck was stolen because no agent of the insurance company testified at trial. However, there was substantial evidence that the truck was stolen from Dallas Miller and that Miller was reimbursed by his insurance company, which then presumably assumed ownership. The statute does not require that evidence of theft be provided by the party that owns the property at the time it is located, and appellant has cited no other authority for that proposition. Appellant suggests that an agent of the insurance company could have provided direct evidence that the insurer had not transferred possession of the vehicle to a third party in the weeks before the truck was found in

appellant's possession. Although this may be true, there was abundant circumstantial evidence in this case to show that the insurance company was the truck's owner at the time of its discovery. Circumstantial evidence alone is substantial evidence when it excludes every other reasonable hypothesis than that of guilt of the accused. *Lowe v. State*, 357 Ark. 501, 182 S.W.3d 132 (2004). The unexplained possession or control by a person of recently stolen property or the acquisition by a person of property for a consideration known to be far below its reasonable value gives rise to a presumption that said person knows or believes that the property was stolen. Ark. Code Ann. § 5-36-106(c); *Core v. State*, 265 Ark. 409, 578 S.W.2d 581 (1979). In light of this presumption, and of the contradictions and implausibility of the testimony presented by the defense regarding appellant's asserted purchase of the truck and the purported bill of sale, we hold that there was substantial evidence to show that the truck was stolen when appellant acquired it.

Affirmed.

GLADWIN and GLOVER, JJ., agree.