[Cite as *State v. Mathis*, 2015-Ohio-1335.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

State of Ohio — Court of Appeals No. WD-14-021

Appellee — Trial Court No. 13 CR 342

v.

Manuel Mathis — **DECISION AND JUDGMENT**

Appellant — Decided: April 3, 2015

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, and
David T. Harold, Assistant Prosecuting Attorneys, for appellee.

Tim A. Dugan, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a January 16, 2014 judgment of the Wood County Court of Common Pleas, finding appellant guilty of one count of receiving stolen

property, in violation of R.C. 2913.51(A), a felony of the fourth degree. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Manuel Mathis, sets forth the following two assignments of error:

1. The state presented legally insufficient evidence to sustain appellant's conviction for receiving stolen property.

2. Appellant's conviction fell against the manifest weight of the evidence.

{¶ 3} The following undisputed facts are relevant to this appeal. In 2013, Frank Noel ("Noel") was having extensive renovations performed on a 1966 Chevrolet El Camino that was owned by his late father at Wood County Collision ("WCC"). As of May 31, 2013, approximately $42,000 had been invested in the motor vehicle restoration project and it was nearly complete.

{¶ 4} On May 31, 2013, two unknown males stopped in unexpectedly at WCC to admire the vehicle as Noel worked on the car. WCC is equipped with extensive security measures in addition to a security system given that quite valuable vehicles are sometimes being worked on and stored at the business. The building features 24 gauge double-sided overhead doors weighing several hundred pounds with hinged steel swinging gates across them that close and lock. In conjunction with these features, as a further safety precaution the circuit breaker is shut off each night to preclude an intruder from being able to activate and open the doors and gate.

{¶ 5} On May 31, 2013, at 10:30 p.m. the owner of WCC, Terry Finley ("Finley"), received a phone call from Guardian Alarm notifying him that the security system at his business had been triggered. When Finley arrived at the business shortly thereafter he observed that the heavy-duty door protecting the business had been broken and the steel gate cut off of the building. Given the heightened security features in place at WCC, orchestrating the successful bypass of the security features reflects a perpetrator not only determined but in possession of heavy duty equipment. Notably, the only property of any kind stolen from WCC was Noel's El Camino that had been admired by strangers earlier that same day.

{¶ 6} Gaining access to WCC in order to steal the El Camino required a tool known as a metabo, a specialized tool utilized to cut off hinges. In conjunction with a metabo, a heavy duty vehicle such as a commercial tow truck would be required in order to first pull off the overhead doors and then hook up and tow away the target vehicle. Appellant owns a commercial tow truck from which the police recovered a metabo. Appellant's tow truck was covered in a thin layer of fresh oil, inhibiting the ability to recover fingerprints.

{¶ 7} Devastated at the loss of the newly restored vehicle owned by his late father, Noel offered a reward for the return of his vehicle on both Facebook and Craigslist. Shortly thereafter, Noel received a call from a restricted number. The caller was appellant. Notably, appellant possesses an extensive criminal history including prior theft offenses.

{¶ 8} Having already received several fraudulent calls from parties having no knowledge of the vehicle simply trying to elicit the reward money, Noel strenuously pressured appellant regarding how the caller could be certain he had the right vehicle. Appellant quickly replied, "Oh yes, it's definitely your car." Appellant insistently admonished Noel multiple times during their conversations that there must be, "No police involved in this."

{¶ 9} On June 15, 2013, Noel met appellant at a gas station in Northwood, Ohio. In a highly dubious course of action, appellant began hand drafting a purported contract that he demanded Noel sign. Appellant later had the document notarized outside of Noel's presence in an effort to create the appearance of a legally enforceable document. The document purportedly represented that appellant was entitled to reward money for the return of the vehicle and also that appellant was not to be held liable for anything in connection to the vehicle. Appellant told Noel that he would return the vehicle the following day and once again admonished him, "[M]ake sure you don't bring none of the cops with you."

{¶ 10} In the interim, the Northwood Police Department were advised of the situation. The following day, after Noel verified that appellant was en route transporting the vehicle on his tow truck to Northwood, police officers positioned themselves to intercept appellant and recover the stolen vehicle.

{¶ 11} Upon driving into the Northwood city limits and prior to reaching the designated drop-off location, appellant's tow truck was stopped. It was carrying the stolen vehicle. A metabo was recovered from inside the tow truck. Noel's stolen El Camino that the tow truck was carrying was stripped, badly damaged, and covered in oil to inhibit fingerprints. Upon questioning appellant regarding how he came into possession of the stolen vehicle, appellant presented multiple, inconsistent versions of the story.

{¶ 12} Appellant initially stated that he was simply returning a vehicle in the normal course of his operation of a towing business. Appellant then claimed that he had discovered the vehicle inside a garage at an abandoned home. Upon further questioning, appellant next claimed that the vehicle was actually sitting outside of a garage and appellant could no longer recall the exact location of the garage. Appellant next represented that someone told him about the vehicle and had disclosed to appellant that the vehicle was stolen, but appellant was unable to identify who conveyed that information to him. Lastly, at trial, appellant furnished another variation of his version of events, claiming at trial that a guy named "Steve" told appellant about the car and, in response, appellant towed the vehicle from a location at a corner on Cherry Street in Toledo.

{¶ 13} On July 5, 2013, appellant was indicted on one count of receiving stolen property, in violation of R.C. 2913.51(A), a felony of the fourth degree. On January 16,

2014, the case proceeded to jury trial. Appellant was found guilty. On March 10, 2014, appellant was sentenced to three years of community control. This appeal ensued.

{¶ 14} Appellant's assignments of error will be considered simultaneously as they are both rooted in the common legal premise that appellant's conviction was improper as it lacked proper evidentiary support.

{¶ 15} In the first assignment of error, appellant asserts that his conviction was not supported by legally sufficient evidence. In the second assignment of error, appellant contends that his conviction was against the manifest weight of the evidence.

{¶ 16} A sufficiency of the evidence challenge requires an examination as to whether the evidence presented is legally adequate to support a jury verdict on the elements of the crime. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 678 N.E.2d 541 (1997). The relevant inquiry in such cases is whether after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could find the essential elements of the crime proven beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

{¶ 17} In conjunction with the above, in a manifest weight of the evidence challenge, this court sits as a "thirteenth" juror and, after reviewing the entire record of evidence, weighs the evidence and all reasonable inferences, considers the credibility of witnesses, and determines whether in resolving conflicts in the evidence, the jury clearly lost its way so as to cause a manifest miscarriage of justice such that the conviction must be reversed and a new trial ordered. *Thompkins, supra*, at 386.

{¶ 18} Appellant was convicted of one count of receiving stolen property, in violation of R.C. 2913.51 (A), a felony of the fourth degree. R.C. 2913.51(A) establishes that, "No person shall was receive, retain, or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through the commission of a theft offense."

{¶ 19} At trial, the jury heard testimony from Northwood Police Department detective Campbell ("Campbell") that appellant's vehicle was stopped on Tracy Road carrying Noel's stolen El Camino following appellant contacting Noel seeking reward money for return of the vehicle, definitively representing to Noel that he was in possession of the subject vehicle, and emphasizing repeatedly that no police were to be involved. Campbell further testified that appellant represented that he became aware of the vehicle being stolen when he was contacted on Craigslist by a friend but he could not identify the friend. Campbell also testified that appellant changed his story multiple times regarding how he came into possession of the stolen vehicle and appellant became increasingly agitated each time he presented a different version of events.

{¶ 20} Evidence was presented at trial by Finley, the owner of WCC, regarding various security measures installed at the business in order to deter theft. Finley testified how the monumental task of dismembering steel doors and gates weighing hundreds of pounds and removing the vehicle would require specialty tools such as a metabo and a

heavy-duty commercial grade vehicle such as a tow truck. Appellant drives a tow truck and was in possession of a metabo inside his tow truck at the time the stolen vehicle was recovered from the back of that tow truck.

{¶ 21} The victim testified at trial that the evening after strangers had admired his vehicle at WCC, it was stolen. In a desperate effort to recover a vehicle owned by his late father, he offered reward money in postings on Craigslist and Facebook. Appellant contacted Noel and unequivocally represented that he was in possession of the vehicle, he wanted the reward money, and that absolutely no police were to be involved. Upon meeting Noel at a gas station, appellant drafted a purported contract claiming both entitlement to the reward money and further claiming no liability in connection to the matter. Noel signed the unenforceable document and verbally agreed to give appellant the reward money in exchange for the return of his vehicle. In the interim, the police were notified. While en route to make the exchange the following day, appellant's tow truck was stopped by the investigating officers. It contained a metabo and was carrying the stolen vehicle still dripping in oil in an effort to prevent fingerprints.

{¶ 22} Conversely, appellant testified at trial that he was advised by an acquaintance that there was a $5000 reward for a stolen 1966 El Camino and that there was another individual named Steve who knew the location of the car and arranged for appellant to take possession of the car so that the two of them could split the reward money. When questioned at trial as to why prior to the day of trial appellant had never

revealed any of this information to the investigating officers or anyone else, appellant replied, "I was upset at the time. I didn't want to talk to no police." While appellant conceded at trial that he presented multiple versions of events to the investigating officers, his explanation regarding why he offered many versions of events was unpersuasively limited to being upset at being questioned by the police.

{¶ 23} We have carefully reviewed and considered the record of evidence in this matter. We find that the record shows that ample evidence was presented at trial to enable a rational trier of fact to find beyond a reasonable doubt that appellant had reasonable cause to believe that he had received, retained and was in the process of disposing of a motor vehicle belonging to another that had been obtained through the commission of a theft offense. We find appellant's first assignment of error not well-taken.

{¶ 24} Similarly, we find no evidence in the record from which it could be reasonably construed that the jury lost its way and caused a manifest miscarriage of justice in resolving the conflicts of evidence in this case. We find appellant's second assignment of error not well-taken.

{¶ 25} On consideration whereof, the judgment of the Wood County Court of Common Pleas is hereby affirmed. Appellant is ordered to pay the cost of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J. _____

JUDGE

Thomas J. Osowik, J. _____

JUDGE

James D. Jensen, J. _____
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.