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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-2286**

State of Minnesota,
Respondent,

vs.

James Elliot Johnson,
Appellant.

**Filed November 17, 2009
Affirmed
Stoneburner, Judge**

Sherburne County District Court
File No. 71CR08449

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Kathleen A. Heaney, Sherburne County Attorney, Arden Fritz, Assistant County Attorney, Government Center, 13880 Highway 10, Elk River, MN 55330 (for respondent)

Rebecca Waxse, 433 Jackson Street, Suite 120, Anoka, MN 55303. (for appellant)

Considered and decided by Lansing, Presiding Judge; Stoneburner, Judge; and Johnson, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

On appeal from conviction of receiving stolen property, appellant argues that the evidence is insufficient to support the conviction. We affirm.

FACTS

In July 2007, the owner of the Fairway Shores Golf Course reported the theft of two golf carts and a utility cart from his residence in Zimmerman. On the same day, the resident of a cul-de-sac in a new development in Zimmerman noted that a car that he had seen driving by his residence multiple times each day for a few weeks drove by his house and parked in the cul-de-sac. He saw three young men walking around in the area. They were later determined to be David Kangas, James Johnson, and Mathias Holland. According to Kangas and Holland, they had been “riding around” with Johnson, Holland’s girlfriend, and Brandon Pointner. Johnson drove them to the cul-de-sac, and they found two golf carts parked on the edge of the cul-de-sac and a utility cart with its battery removed parked in the woods nearby. Holland, Kangas, and Johnson spent an hour driving the carts on the roads between Zimmerman and Princeton.

The next day, Kangas and Johnson again drove the golf carts and stopped at a friend’s house. The friend’s mother, who had recognized them driving the golf carts on her way home, confronted them about where they had gotten the golf carts. They said they had purchased them for \$100 each. After they left, she contacted law enforcement to report her suspicions that the carts were stolen and directed deputies to the area where she had seen Johnson and Kangas drive the carts into the woods. The deputies found the carts 100 to 150 feet off the road in a heavily wooded and bushy area, as if they were being hidden for future use. The deputies confirmed that the carts were the stolen carts reported by the golf course owner.

Johnson told a deputy that he found the carts. Johnson directed the deputy to the utility cart in the woods near the cul-de-sac. Johnson was charged with receiving stolen property. After a court trial, he was convicted and sentenced. This appeal followed.

D E C I S I O N

Johnson argues that the evidence is insufficient to support a conviction of receiving stolen property because there is no evidence that Johnson knew, or should have known, that the carts were stolen. In considering a claim of insufficient evidence, this court's review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the factfinder to reach the decision it reached. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court will not disturb the verdict if the factfinder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

The elements of the crime of receiving stolen property are (1) the defendant received, possessed, transferred, bought, or concealed; (2) property that was stolen or obtained by robbery; and (3) the defendant knew or had reason to know that the property was stolen or obtained by robbery. Minn. Stat. § 609.53, subd. 1 (2006). In this case, Johnson only challenges the sufficiency of evidence to establish that he knew or should have known that the carts were stolen; he concedes that the state proved that he possessed and concealed the carts and that the carts were stolen. "Knowledge that the property was stolen may be proven by circumstantial evidence." *State v. True*, 378 N.W.2d 45, 48

(Minn. App. 1985). “Unexplained possession of property recently stolen is sufficient to support a conclusion that defendant knew the property was stolen.” *Id.*

As the district court noted, all of Johnson’s companions and his friend’s mother believed that the carts were stolen. Johnson’s explanation for possessing the carts is that he “found” them. But Johnson also admits that he stole the carts from the location in the cul-de-sac where he claims that he found them. The district court found that Johnson continued to possess and conceal the carts for three days after he “found” them.

Although Johnson argues that he should have been charged with simple theft, the state proved beyond a reasonable doubt that Johnson possessed the carts knowing that they were stolen, and there is no merit in his challenge to the sufficiency of the evidence.

Affirmed.