STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1038

State of Minnesota,
Respondent,

vs.

Lesean Anderson,
Appellant.

Filed April 14, 2014
Affirmed
Hooten, Judge

Ramsey County District Court
File No. 62-CR-12-7446

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Susan J. Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Ross, Judge; and Bjorkman, Judge.

U N P U B L I S H E D O P I N I O N

HOOTEN, Judge

In an appeal from a conviction for motor-vehicle theft, appellant claims that there was insufficient evidence produced by the state in his court trial to support his guilt and

conviction. Because we defer to the district court's credibility determination rejecting appellant's testimony that he thought the city-owned "bait car" was a rental car, and the circumstances proven by the state demonstrate that appellant had reason to know he lacked consent to take the vehicle, we affirm.

FACTS

In September 2012, officers in the St. Paul Police Department's Auto Theft Unit parked a 2003 Infiniti G35 on Bush Avenue. They left the doors unlocked and the keys in the ignition. The vehicle was a "bait car" belonging to the City of St. Paul. It was equipped with an alarm system, which alerted police whenever its doors opened or engine was engaged, and audio and video recording equipment. Three days after the vehicle was parked, its alarm went off. Officers were notified, stopped the vehicle after it had traveled about 15 blocks, and arrested the two men who were inside.

Appellant Lesean Anderson was driving the vehicle. Anderson was read his *Miranda* rights and had two recorded conversations with Sergeant Jon Loretz. Anderson told Sergeant Loretz that he was walking to a gas station when Dwayne Labon approached him and asked for a ride to Labon's house. Anderson agreed, and the two walked to the Infiniti parked on Bush Avenue. Anderson said he asked Labon whose car it was and Labon said it was "one of his guys" and "a rental." Anderson said that he had wondered whose car it was because it was an Infiniti, which he knew to be expensive, and that he thought the car might have been a "dope rental." Anderson also said that Labon gave him the keys after they got in the car. Sergeant Loretz asked Anderson if he was sure the keys were not in the car when they got in, and twice Anderson said they

were not. But when Sergeant Loretz later said the keys were already in the ignition, Anderson said, "Yep, I believe they were in the ignition already." And when asked during the second interview again about the keys, Anderson said the keys were in the car when he got in.

The recording from inside the Infiniti confirmed Anderson's suspicions about the vehicle. After Anderson and Labon got inside, Anderson asked whether the car was "dirty." Labon said that it was a rental. Anderson adjusted the driver's seat, removed his hat, and began driving. He told Labon to roll down his window so they would not get pulled over and said, "I'm really not supposed to be driving, know what I'm saying? I'm taking a chance." Anderson did not have a valid driver's license at the time. After officers surrounded the vehicle, Anderson asked Labon, "Is this car dirty?" Labon said, "I don't know." As he exited, Anderson asked twice more, "Is this car dirty?"

Anderson was charged with theft of a motor vehicle in violation of Minn. Stat. § 609.52, subd. 2(a)(17) (2012). He was tried by the court. The parties stipulated to many of the facts and two exhibits: the recordings from the Infiniti and Sergeant Loretz's interviews with Anderson. The district court found Anderson guilty. This appeal follows.

D E C I S I O N

Anderson argues that the state failed to produce sufficient evidence to support his conviction. When considering an insufficient-evidence claim, "we determine whether the legitimate inferences drawn from the record would reasonably support the jury's conclusion that the defendant was guilty beyond a reasonable doubt." *State v. Pratt*, 813

N.W.2d 868, 874 (Minn. 2012). "We give due regard to the defendant's presumption of innocence and the State's burden of proof, and will uphold the verdict if the jury could reasonably have found the defendant guilty." *Id.*

To prove a charge of motor-vehicle theft, the state must show that the defendant (1) took or drove a motor vehicle, (2) without the consent of the owner, (3) knowing or having reason to know that the owner did not give consent. Minn. Stat. § 609.52, subd. 2(a)(17). The only issue here is whether the state proved that Anderson knew or had reason to know that he lacked consent. "[B]ecause intent is a state of mind, it is generally proved by inferences drawn from a person's words or actions in light of all the surrounding circumstances." *State v. Thompson*, 544 N.W.2d 8, 11 (Minn. 1996). We apply heightened scrutiny to verdicts based on circumstantial evidence. *Pratt*, 813 N.W.2d at 874. The circumstances proved by the state must be consistent with the hypothesis that the defendant is guilty and inconsistent with any other rational hypotheses. *Id.*

The district court's relevant findings are as follows:

> [T]he defendant stated that the passenger of the vehicle gave the defendant the keys to drive the vehicle. This statement was not credible as the keys were left in the vehicle. Further, the defendant changed his story during a later interview and stated the keys were in the vehicle. . . .
>
> Throughout both interviews . . . the defendant stated he believed the vehicle was a rental from "some guy." These statements by the defendant were not credible. Defendant admitted to seeing the car sitting at 993 Bush Ave. for "some time" before deciding to drive it. Defendant is also heard on the bait car's video stating that by driving, he is "taking the

> risk" and that the passenger should roll down the tinted window of the vehicle so they would not get "pulled over."

Anderson takes issue with the district court finding that he said "some time" and "taking the risk." His complaints are technically correct; the record does not include him using those exact phrases. But Anderson made substantially similar statements. He told Sergeant Loretz, "I had seen the car sittin' out already. You know, I'm not going to lie to you. I'd seen the car sittin' out." Sergeant Loretz asked how long Anderson had seen the car, and Anderson said, "I must have seen that car sittin' there about like five minutes or whatever." And in the car, Anderson said to Labon, "I'm really not supposed to be driving, know what I'm saying? I'm taking a chance." The differences between the court's findings and the record are insignificant.

Sufficient evidence supports the district court's conclusion that Anderson had reason to know he lacked consent when he took the vehicle. Anderson asked several times whether the car was "dirty." He questioned Labon's claim that the car was a legitimate rental, stating that he thought it was probably a "dope rental" and that it did not have "tags" like the rental cars his wife had used. The make of the vehicle also made Anderson suspicious. He said to Sergeant Loretz, "I'm looking at the car, and I'm like, *Infiniti? Man, whose car is this?* Because this is an *Infiniti*. I know this car cost some money." Sergeant Loretz later said, "So it must have seemed kind of suspicious to you, this car," and Anderson said, "Yea, you know what, 'cause I had looked at the car. . . . We were going to the car, and [Labon] asked me to drive. And I told you, I'm like, *Infiniti*?"

Finally, the district court concluded that much of Anderson's testimony was not credible. We defer to the district court's credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012). The district court found Anderson's statements that he believed the vehicle was a rental and that Labon gave him the keys to the vehicle to be incredible. The district court noted that the keys were left in the vehicle and Anderson changed his story about the keys during the second interview. Given our deference to these findings, the circumstances proven by the state are consistent with the finding that Anderson had reason to know he lacked consent to take the car, and inconsistent with any other rational hypothesis.

Affirmed.