



ATTORNEY FOR APPELLANT
William T. Myers
Grant County Public Defender
Marion, Indiana

ATTORNEYS FOR APPELLEE
Theodore E. Rokita
Attorney General of Indiana

Steven J. Hosler
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Craig W. Bright,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 15, 2023
Court of Appeals Case No.
22A-CR-1875
Appeal from the Grant Circuit
Court
The Honorable Mark E. Spitzer,
Judge
Trial Court Cause Nos.
27C01-2001-F6-35
27C01-2110-F4-36

Opinion by Judge Tavitas
Judges Vaidik and Foley concur.

Tavitas, Judge.

Case Summary

[1] Craig Bright appeals his convictions for burglary, a Level 4 felony, and auto theft, a Level 6 felony. Bright argues that: 1) the trial court abused its discretion by permitting the State to amend its charging information on the day of the trial; and 2) insufficient evidence supports his conviction for burglary. We find that the trial court did not abuse its discretion and that sufficient evidence supports Bright’s conviction for burglary. Accordingly, we affirm.

Issues

- [2] Bright raises two issues on appeal, which we restate as:
- I. Whether the trial court abused its discretion by permitting the State to amend its charging information on the day of the trial.
 - II. Whether sufficient evidence supports Bright’s conviction for burglary.

Facts

[3] Craig Bright is the son of Gary Bright. Gary and his wife, Debra Bright,¹ lived in a house in Marion. Gary and Debra divorced in September 2020, and the dissolution court awarded the marital residence to Debra. Debra, however,

¹ Debra was Bright’s step-mother.

permitted Gary to live in the house while he was ill. Gary also owned a truck, titled in his name, which he kept at Debra's house.

[4] Gary died on July 18, 2021. Later that day, after learning of his father's death, Bright "kicked" in the back door of Debra's house, took a pair of keys to the truck, and left with the truck. Tr. Vol. II p. 72. Debra was not home at the time, and when she returned, she reported the break-in and that a cell phone and the truck were missing. Police later located the truck in a parking lot with Bright's belongings inside.

[5] On October 22, 2021, the State charged Bright with three counts: Count I, burglary, a Level 4 felony; Count II, auto theft, a Level 6 felony; and Count III, theft, a Level 6 felony. Count II alleged that Bright knowingly or intentionally exerted unauthorized control over the truck, which the State alleged belonged to Debra; and Count III alleged that Bright knowingly or intentionally exerted unauthorized control over the cell phone, which the State also alleged belonged to Debra.

[6] On the day of the bench trial, January 3, 2022, before the trial commenced, the State moved to amend Count II to allege that the truck belonged to "Debra Rose Bright and/or the Estate of Gary Bright." Appellant's App. Vol. II p. 58. Bright, representing himself, objected to the amendment and stated that he "has been saying all along this is his father's stuff and it should come to [Bright]." Tr. Vol. II p. 6. The trial court overruled the objection and permitted the amendment. Bright did not move for a continuance.

- [7] During the trial, the State proffered the title to the truck, which lists Gary as the owner. In addition, Debra testified that Gary intended, “[a]t one time,” to bequeath the truck, upon his death, to Bright, but that Gary later changed his mind. *Id.* at 44. She further testified that Bright did not have permission to enter the home or to take the keys or the truck.
- [8] Bright testified in his own defense and admitted to kicking in the back door and taking the keys and the truck. Bright denied intending to steal from the house and testified that he believed that, due to Gary’s death, the truck belonged to Bright.
- [9] The trial court found Bright guilty of Counts I and II and not guilty of Count III. The trial court entered judgments of conviction on Counts I and II and sentenced Bright to concurrent sentences of: 1) six years, with four years executed, on Count I; and 2) two-and-one-half years, all executed, on Count II. Bright now appeals.

Discussion and Decision

A. Abuse of Discretion—Amending the Charging Information

- [10] Bright first argues that the trial court abused its discretion by permitting the State to amend its charging information on the day of the trial. We disagree.
- [11] An amendment to the State’s charging information may be either a matter of form or substance. *See Erkins v. State*, 13 N.E.3d 400, 405 (Ind. 2014); *see also* Ind. Code § 35-34-1-5.

[A]n amendment is one of form, not substance, a defense under the original information would be equally available after the amendment and the accused's evidence would apply equally to the information in either form. Further, an amendment is one of substance only if it is essential to making a valid charge of the crime.

Erkins, 13 N.E.3d at 406 (quoting *Fajardo v. State*, 859 N.E.2d 1201, 1205 (Ind. 2007), *superseded by subsequent amendment to I.C. 35-34-1-5*).

[12] We need not decide whether the State's amendment is a matter of form or substance because we find that, in either case, Bright would not prevail.

Indiana Code Section 35-34-1-5 provides:

(a) An indictment or information which charges the commission of an offense may not be dismissed but may be amended on motion by the prosecuting attorney at any time because of any immaterial defect, including:

(9) any other defect which does not prejudice the substantial rights of the defendant.

(b) The indictment or information may be amended in matters of substance and the names of material witnesses may be added, by the prosecuting attorney, upon giving written notice to the defendant at any time:

(1) up to:

(A) thirty (30) days if the defendant is charged with a felony; or

(B) fifteen (15) days if the defendant is charged only with one (1) or more misdemeanors;

before the omnibus date; or

(2) before the commencement of trial;

if the amendment does not prejudice the substantial rights of the defendant. . . .

[13] “A defendant’s substantial rights ‘include a right to sufficient notice and an opportunity to be heard regarding the charge; and, if the amendment does not affect any particular defense or change the positions of either of the parties, it does not violate these rights.’” *Erkins*, 13 N.E.3d at 405 (quoting *Gomez v. State*, 907 N.E.2d 607, 611 (Ind. Ct. App. 2009), *trans. denied*). “‘Ultimately, the question is whether the defendant had a reasonable opportunity to prepare for and defend against the charges.’” *Id.* at 405-06 (quoting *Sides v. State*, 693 N.E.2d 1310, 1313 (Ind. 1998), *abrogated on other grounds by Fajardo*, 859 N.E.2d 1201). “We review a trial court’s decision on whether to permit an amendment to a charging information for an abuse of discretion.” *Hobbs v. State*, 160 N.E.3d 543, 551 (Ind. Ct. App. 2020), *trans. denied*.

[14] Here, before the trial commenced, the trial court allowed the State to amend Count II, the auto theft charge, to allege that the truck belonged to “Debra Rose Bright and/or the Estate of Gary Bright” rather than simply Debra. Appellant’s

App. Vol. II p. 58. Bright’s substantial rights were not prejudiced by this amendment. Bright’s defense strategy consisted of arguing that the truck belonged to Gary, not Debra, and that the truck passed to Bright upon Gary’s death. The State’s amendment adding Gary’s estate as the owner of the truck in no way impaired, and perhaps even helped, Bright’s defense. Bright argues that he “was prejudiced by not having persons prepared to come forward and testify as to [Gary’s] estate.” Appellant’s Br. p. 7. But the amendment only concerned the owner or person who had authorized possession of the truck. The amendment had no effect on Bright’s ability to present evidence that he, in fact, owned or had authorized control over the truck. The amendment to the charging information, thus, did not prejudice Bright’s substantial rights, and the trial court, accordingly, did not abuse its discretion.

B. Insufficient Evidence

[15] Bright next argues that the State presented insufficient evidence to support his burglary conviction. We disagree.

[16] Sufficiency of evidence claims “warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility.” *Powell v. State*, 151 N.E.3d 256, 262 (Ind. 2020) (citing *Perry v. State*, 638 N.E.2d 1236, 1242 (Ind. 1994)). “When there are conflicts in the evidence, the [fact-finder] must resolve them.” *Young v. State*, 198 N.E.3d 1172, 1176 (Ind. 2022). We consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. *Powell*, 151 N.E.3d at 262 (citing *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). “We will affirm a conviction if there

is substantial evidence of probative value that would lead a reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.” *Id.* at 263. We affirm a conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)).

[17] Here, Bright was convicted of burglary, a Level 4 felony. Burglary is defined by Indiana Code Section 35-43-2-1, which provides, “[a] person who breaks and enters the building or structure of another person, with intent to commit a felony or theft in it, commits burglary. . . .” Indiana Code Section 35-43-4-2 defines theft, a felony, as “knowingly or intentionally exert[ing] unauthorized control over property of another person, with the intent to deprive the other person of any part of its value or use.”

[18] On appeal, Bright does not argue that the truck, in fact, belonged to him but rather that he “believed” it did. Appellant’s Br. p. 8. He argues that the State, therefore, failed to prove that he intended to commit theft when he broke into Debra’s house.

[19] The intent to commit theft element of the burglary statute may be inferred from circumstantial evidence. *Creasy v. State*, 518 N.E.2d 785, 786-87 (Ind. 1988). Here, the State presented evidence that, on the day that Gary died, Bright

kicked in the back door to enter the unoccupied house, took a set of keys to the truck, and left with the truck. The State also presented evidence that the truck was titled in Gary's name and that Gary did not bequeath the truck to Bright. Finally, the State presented evidence that the truck, while parked at Debra's house, was in Debra's possession and that Bright did not have permission to enter the house, take the truck keys, or take the truck. *Cf. Bennet v. State*, 787 N.E.2d 938, 946 (Ind. Ct. App. 2003) (A person need not have "absolute ownership" of property to be a victim of theft so long as the person has "lawful possession of the property." (citing *Bryant v. State*, 245 N.E.2d 156, 158 (1969))), *trans. denied*.

[20] Although Bright testified that he did not intend to steal the truck, the trial court had no obligation to believe him. Indiana law provides a legal process for sorting out the disputed ownership of property. Here, Bright did not avail himself of any legal process but instead took matters into his own hands by forcing entry into Debra's home without any established right to the truck. The trial court, thus, could reasonably infer from the circumstantial evidence that Bright intended to steal the truck. Accordingly, sufficient evidence supports Bright's conviction for burglary.²

² The State argues that Bright's mistake regarding whether he inherited the truck was a mistake of law and is, therefore, not a valid defense. We agree. "Misunderstanding the legal effect of a known fact or situation . . . is a mistake of law." *Fox v. Baker*, 170 N.E.3d 662, 666 (Ind. Ct. App. 2021) (citing *Carlson v. Sweeney, Dabagia, Donoghue, Thorne, Janes & Pagos*, 895 N.E.2d 1191, 1199 (Ind. 2008)); *Mistake of Law*, BLACK'S LAW DICTIONARY (11th ed. 2019)). It is well settled that mistakes of law are not a valid defense. *See Bellwether*

Conclusion

[21] The trial court did not abuse its discretion by permitting the State to amend its charging information, and sufficient evidence supports Bright's burglary conviction. Accordingly, we affirm.

[22] Affirmed.

Vaidik, J., and Foley, J., concur.

Props., LLC v. Duke Energy Ind., Inc., 87 N.E.3d 462, 467 (Ind. 2017). Bright's mistake regarding whether he inherited the truck upon Gary's death is one of law and, therefore, is unavailing.