

## MEMORANDUM DECISION

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# IN THE Court of Appeals of Indiana

Michael Trimble,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*



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March 26, 2025

Court of Appeals Case No.  
24A-CR-2310

Appeal from the Morgan Superior Court  
The Honorable Dakota R. VanLeeuwen, Judge  
Trial Court Cause No.  
55D01-2304-F6-666

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**Memorandum Decision by Judge May**  
Judges Weissmann and Scheele concur.

**May, Judge.**

- [1] Michael Trimble appeals his conviction of Level 6 felony theft.<sup>1</sup> Trimble argues the State failed to present sufficient evidence to prove he committed that crime. We affirm.

## Facts and Procedural History

- [2] Jerry Haywood owned over twelve acres of land in Morgan County. On his land, he raised cattle to feed his extended family, and he tapped trees to make maple syrup. Haywood's property had a small wooden mini-barn on it, but by 2021, Haywood decided he needed a bigger barn. One day in the summer of 2021, as Haywood was driving home, he noticed a two-car garage and deck being built around an existing house. Two days later, Haywood stopped by the worksite to speak to the builder, who was Trimble. A sign by the street indicated Trimble also built pole barns and Haywood observed "the workmanship appeared . . . to be excellent." (Tr. Vol. 2 at 115.) Trimble gave Haywood a business card that indicated Trimble was "licensed, bonded and insured." (*Id.* at 119; see also Ex. Vol. at 4.) Haywood asked Trimble to give a quote on building "a thirty by forty foot pole barn with a sixteen foot ceiling." (Tr. Vol. 2 at 115.)

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<sup>1</sup> Ind. Code § 35-43-4-2(a) & (a)(1)(A).

[3] On September 11, 2021, Trimble gave Haywood a quote in the form of an eight-page contract. (Ex. Vol. at 5-12.) The contract indicated Trimble would build the barn for \$54,780, and it required Haywood to pay “10% DOWN, 40% START DATE, 40% WHEN STRUCTURE IS FRAMED, & 10% UPON COMPLETION UNLESS NOTED OTHERWISE IN CONTRACT.” (Ex. Vol. at 9) (capitalization in original). Haywood considered the contract for two months, returned to Trimble’s other jobsite again to inspect the work, and asked around the area about Trimble.

[4] On November 12, 2021, Haywood gave Trimble a cashier check for \$5,478, which fulfilled the ten-percent downpayment required by the contract. Haywood informed Trimble that Haywood needed two months to remove trees and to tear down and remove his old barn before Trimble could start. Trimble indicated that delay was fine as he had other jobs to complete. Haywood and his family cleared the trees and barn and then in late February or early March 2022, Trimble came to Haywood’s property with miscellaneous lumber, built sawhorses, removed a stump, spread gravel, and used surveyor’s tools to lay out the perimeter of the new barn with string and boards. Because Trimble appeared to be starting construction, on March 8, 2022, Haywood gave Trimble a check for \$21,912, which fulfilled the obligation for Haywood to pay forty percent when the building project was starting. Haywood expected his barn to be complete three to six weeks later.

[5] After building the sawhorses and measuring out the perimeter of the barn, Trimble did not return to Haywood’s property. Haywood called Trimble

numerous times between March and July 2022, but Trimble never answered Haywood's calls to either of the phone numbers on Trimble's business card. In June 2022, Haywood and his daughter, Kelly, stopped at the house where Trimble lived with his mother and knocked on the door. When Trimble came to the door, he "acted like he didn't have any idea as to who we were." (Tr. Vol. 2 at 130.)

[6] In July 2022, Haywood's daughter began texting Trimble. Trimble responded to some of Kelly's texts in July and August 2022. On multiple occasions Trimble indicated he would be arriving to begin construction, but then Trimble would not arrive. Instead, he sometimes provided excuses for why he could not arrive and had not started the work. On September 20, 2022, Haywood and his daughter drafted a letter to Trimble, and Haywood took it to the house where Trimble lived, rolled it up, and put it between the doorknob and door jamb of the front door. The letter was addressed to Trimble and stated:

This letter is to notify you of my intentions regarding the Pole Barn I contracted you to build.

As of March of 2022, I have given you \$27,000, which equates to about half of the cost of the project. I have not received the equivalent in material or labor. Nor have you communicated in a timely manner or at all regarding the status of your projected re-start date. You have moved some dirt, put some gravel down and laid out the parameter with string and that has been it. I have not seen any material delivered, nor have you fulfilled any of the promises you have made. The time that I and my daughter have spent tracking you down and trying to

communicate with you is ridiculous. You are not fulfilling your end of this contract.

You have two choices:

1. Refund my money in full.
2. Show significant progress on the barn (to match the money you have already been given).

Or I will be forced to have a conversation with the Morgan County Prosecutors office.

I am no longer interested in half assed communication or empty promises. Full fill your end of the bargain or refund my money. You have until Friday September 23<sup>rd</sup> to communicate with me your intentions. If I do not hear from you, I will take other action.

(Ex. Vol. at 20) (errors in original). Haywood signed the letter and included his home phone number and cell phone number. Haywood did not hear from Trimble after delivering the letter. Trimble never submitted an application for a building permit with the Morgan County Plan Commission.

[7] On April 24, 2023, the State charged Trimble with two counts of Level 6 felony theft. The first count alleged theft “on or about November 12, 2021[.],” and the second count alleged theft “on or about March 7, 2022[.]” (Appellant’s App. Vol. 2 at 15.) On July 16, 2024, a jury found Trimble not guilty of theft in November 2021, but guilty of theft in March 2022. Following a sentencing

hearing, the trial court imposed a sentence of 547 days and ordered Trimble to pay \$21,912 in restitution to Haywood.

## Discussion and Decision

- [8] Trimble argues the State presented insufficient evidence to prove he committed theft. Our standard of review for claims challenging the sufficiency of the evidence is well-settled:

Sufficiency-of-the-evidence claims . . . warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility. Rather we consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. 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.

*Powell v. State*, 151 N.E.3d 256, 262-63 (Ind. 2020) (internal citations omitted).

- [9] Class A misdemeanor theft occurs when a person “knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use[.]” Ind. Code § 35-43-4-2(a). That crime becomes a Level 6 felony when the value of the property at issue “is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)[.]” Ind. Code § 35-43-4-2(a)(1)(A). Conduct occurs “intentionally” when it is a person’s “conscious objective” to engage in the conduct. Ind. Code § 35-41-2-2(a). A person “engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is

doing so.” Ind. Code § 35-41-2-2(b). Control over another person’s property is “unauthorized” if, as relevant here, it occurs: “(1) without the other person’s consent;” “(2) in a manner or to an extent other than that to which the other person has consented;” “(4) by creating or confirming a false impression in the other person;” “(5) by failing to correct a false impression that the person knows is influencing the other person, if the person stands in a relationship of special trust to the other person;” or “(6) by promising performance that the person knows will not be performed[.]” Ind. Code § 35-43-4-1(b).

[10] Trimble asserts “it was not plausible for a reasonable trier of fact to find ‘substantial evidence of probative value’ upon which said trier could find that Trimble knowingly or intentionally exerted unauthorized control over the property of Haywood.” (Appellant’s Br. at 7.) “[I]ntent is a mental function and without a confession, it must be determined from a consideration of the conduct, and the natural consequences of the conduct.” *Duren v. State*, 720 N.E.2d 1198, 1202 (Ind. Ct. App. 1999), *trans. denied*. Accordingly, intent often must be proven by circumstantial evidence. *Id.* The trier of fact is entitled to infer intent from the surrounding circumstances. *White v. State*, 772 N.E.2d 408, 412 (Ind. 2002).

[11] In the first week of March 2022, Trimble came to Haywood’s property to remove a stump, spread gravel around the build site, measure and stake out the perimeter of the barn to be built, and build sawhorses. From these behaviors, Haywood reasonably believed Trimble was beginning construction on his barn and, in accordance with the contract’s terms, Haywood gave Trimble a check

for forty percent of the construction cost. Despite repeated contact by Haywood and his daughter over the next seven months, Trimble never again arrived to build Haywood's barn. According to Laura Parker, an employee of the Morgan County Plan Commission, Trimble also did not file an application for a building permit to construct a pole barn on Haywood's property. When the State filed theft charges against Trimble, more than thirteen months had passed since Haywood had given Trimble the \$21,912 due at the beginning of construction, and Trimble had not returned to construct the barn. Trimble asserts there is no proof that he received the letter from Haywood that demanded construction of the barn or a full refund, but Trimble did not need to receive that letter for a reasonable jury to infer Trimble knew he was not authorized to keep Haywood's money unless he was going to show up to build the barn. *See, e.g., Duren v. State*, 720 N.E.2d 1198, 1202 (Ind. Ct. App. 1999) (when homeowners gave contractor money for windows and doors and contractor used funds for personal expenses rather than paying for the building supplies, contractor's use of money was unauthorized), *trans. denied*. The evidence was sufficient to demonstrate Trimble knowingly or intentionally committed theft. *See, e.g., Reust v. State*, 139 N.E.3d 1056, 1065-6 (Ind. Ct. App. 2019) (landscaping contractor committed theft when he received \$20,000 to do work and only completed \$4,500 worth of landscaping project).

## Conclusion

[12] The State presented sufficient evidence for a factfinder to infer Trimble committed Level 6 felony theft. Accordingly, we affirm.



[13] Affirmed.

Weissmann, J., and Scheele, J., concur.

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