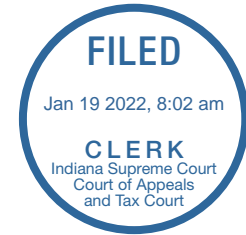


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Nickey Watkins,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

January 19, 2022  
Court of Appeals Case No.  
21A-CR-1148  
Appeal from the  
Marion Superior Court  
The Honorable  
Amy M. Jones, Judge  
Trial Court Cause No.  
49D34-2007-F6-23586

**Molter, Judge.**

[1] Nickey Watkins appeals his conviction for Level 6 felony auto theft. He concedes he possessed the motorcycle at issue and that it was stolen, but he argues the State failed to proffer sufficient evidence that he knew it was stolen. We affirm, concluding that the State’s evidence—including the proximity in time and place between when and where the motorcycle was stolen and found; the fact that Watkins paid \$150 for a \$5,500 motorcycle; the fact that Watkins had no contact information for the purported seller of the motorcycle he claimed to have just purchased; and the fact that Watkins had no paperwork related to the motorcycle he claimed to have just purchased—was sufficient to support his conviction.

### **Facts and Procedural History**

[2] Reed Boeglin’s motorcycle went missing on July 26, 2020, from an area near the White River State Park in Indianapolis. After unsuccessfully searching for it by calling local towing companies and soliciting information through social media, he reported it stolen the following morning on July 27, 2020. He continued searching by driving around the area along with a couple of friends. Later that day, while stopped at an intersection, they saw two men drive past on Boeglin’s motorcycle. Boeglin then called 911, and the three men followed the motorcycle, eventually cutting it off.

[3] Nickey Watkins, who was driving the motorcycle, yelled that the vehicle “wasn’t his” and ran away, and his passenger fled as well. One of Boeglin’s friends followed Watkins on foot, and Watkins attempted to hide behind a bush. The chase ended when Indianapolis Metropolitan Police Department

Officer Cody St. John—who had been dispatched to the area—approached the scene and ordered Watkins to the ground.

[4] Sergeant Marshall Hoskins arrived at the scene shortly after. Upon questioning, Watkins told the officers he purchased the motorcycle four days earlier for \$150. However, Watkins was unable to provide any paperwork for the motorcycle or any contact information for the purported seller.

[5] The State charged Watkins with Level 6 felony auto theft, and he was convicted by a jury. The trial court sentenced him to 545 days of incarceration with 90 days served in home detention and the remaining 455 days suspended. Watkins now appeals.

## Discussion and Decision

[6] Watkins challenges the sufficiency of the evidence to support his conviction. When there is a challenge to the sufficiency of the evidence, “[w]e neither reweigh evidence nor judge witness credibility.” *Gibson v. State*, 51 N.E.3d 204, 210 (Ind. 2016) (citing *Bieghler v. State*, 481 N.E.2d 78, 84 (Ind. 1985)). Instead, “we ‘consider only that evidence most favorable to the judgment together with all reasonable inferences drawn therefrom.’” *Id.* (quoting *Bieghler*, 481 N.E.2d at 84). “We will affirm the judgment if it is supported by ‘substantial evidence of probative value even if there is some conflict in that evidence.’” *Id.* (quoting *Bieghler*, 481 N.E.2d at 84); *see also McCallister v. State*, 91 N.E.3d 554, 558 (Ind. 2018) (holding that, even though there was conflicting evidence, it was “beside the point” because that argument “misapprehend[s] our limited role as a

reviewing court”). Further, “[w]e will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017).

- [7] To convict Watkins of auto theft, the State was required to show beyond a reasonable doubt that Watkins knowingly or intentionally exerted unauthorized control over the vehicle of another person with the intent to deprive the owner of the vehicle’s value or use. Ind. Code § 35-43-4-2.5. On appeal, Watkins contends that the State merely showed that he possessed a vehicle that was previously stolen but failed to prove beyond a reasonable doubt that he knowingly or intentionally exerted unauthorized control over the vehicle. Appellant’s Br. at 6. In other words, he says the State failed to prove he knew the motorcycle he was driving was stolen.
- [8] The mere unexplained possession of stolen property, standing alone, is not enough to support a conviction for theft. *Daugherty v. State*, 43 N.E.3d 1288, 1289 (Ind. Ct. App. 2015) (citing *Fortson v. State*, 919 N.E.2d 1136, 1143 (Ind. 2010)). There must be additional evidence, direct or circumstantial, that the defendant knew the possession was unauthorized. “In essence, the fact of possession and all the surrounding evidence about the possession must be assessed to determine whether any rational juror could find the defendant guilty beyond a reasonable doubt.” *Id.* at 1289–90 (quoting *Fortson*, 919 N.E.2d at 1143).

[9] For example, in *Daugherty*, we determined that there was sufficient evidence from which a reasonable fact-finder could conclude that the defendant was guilty beyond a reasonable doubt because the defendant possessed stolen items “close in time to the moment they were stolen” and “in close proximity” to where they were stolen. *Daugherty*, 43 N.E.3d at 1290. We have also found that “an unusual manner of acquisition may be sufficient evidence of knowledge that the property was stolen,” which includes purchasing the property for a price dramatically lower than its resale value. *Barnett v. State*, 834 N.E.2d 169, 172 (Ind. Ct. App. 2005) (“It appears to us to be highly unusual for a person to be approached at a fast-food restaurant to be offered a game system and a dozen games for \$40 when the trade-in value at a nearby store was more than three times that amount.”).

[10] Here, the State presented evidence that Watkins’s possession of Boeglin’s motorcycle was close in time to when it was stolen and in close physical proximity to the area where it was stolen. Specifically, Watkins was found in possession of Boeglin’s motorcycle one day after the motorcycle was stolen and near White River State Park. Tr. at 56–59. Further, the circumstances of Boeglin’s acquisition of the motorcycle were unusual. Sergeant Hoskins testified that Watkins stated that he purchased the motorcycle, which was worth \$5,500, four days earlier for \$150. *Id.* at 62, 83. And, upon further questioning, Watkins was unable to provide any paperwork for the motorcycle or any contact information for the purported seller. *Id.* at 83.

[11] Consequently, Watkins's possession of the motorcycle and all the surrounding evidence permitted the jury reasonably to infer that he knew the motorcycle was stolen. Because the evidence presented at trial was sufficient to prove that Watkins knowingly or intentionally exerted unauthorized control over a stolen vehicle, we affirm Watkins's conviction for Level 6 felony auto theft.

[12] Affirmed.

Robb, J., and Riley, J., concur.