

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1846

September Term, 2015

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CARLOS PHILLIP BENJAMIN

v.

STATE OF MARYLAND

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Krauser, C.J.,  
Nazarian,  
Moylan, Charles E., Jr.  
(Retired, Specially Assigned),

JJ.

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PER CURIAM

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Filed: July 22, 2016

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Carlos Phillip Benjamin, appellant, was convicted by a jury, in the Circuit Court for Prince George’s County, of theft of a vehicle with a value of at least \$10,000 but less than \$100,000. His sole contention, on appeal, is that the evidence was not sufficient to prove that the vehicle had a value of at least \$10,000. He requests that his conviction be vacated, that a conviction for the lesser included offense of theft of at least \$1,000 but less than \$10,000 be entered, and that he be resentenced on that count. We shall grant his request for relief.

“The standard for our review of the sufficiency of the evidence is ‘whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Neal v. State*, 191 Md. App. 297, 314, *cert. denied*, 415 Md. 42 (2010) (citation omitted). “The test is ‘not whether the evidence *should have or probably would have* persuaded the majority of the fact finders but only whether it *possibly could have* persuaded *any* rational fact finder.’” *Painter v. State*, 157 Md. App. 1, 11 (2004) (citations omitted). In applying the test, “[w]e defer to the fact finder’s ‘opportunity to assess the credibility of witnesses, weigh the evidence, and resolve conflicts in the evidence.’” *Neal, supra*, 191 Md. App. at 314 (citation omitted). We “consider circumstantial evidence as well as direct evidence” and note that “circumstantial evidence alone is ‘sufficient to support a conviction, provided the circumstances support rational inferences from which the trier of fact could be convinced beyond a reasonable doubt of the guilt of the accused.’” *Painter, supra*, 157 Md. App. at 11 (citation omitted).

The only evidence before the jury was that the vehicle was a 2013 Toyota Camry, owned by Hertz Rental Car company, and used as a rental vehicle. The jury was also shown a photograph of the exterior of the vehicle. Without more, this evidence was not sufficient to sustain the conviction at issue.

The State relies on *Angulo-Gil v. State*, 198 Md. App. 124 (2011), in which we concluded that evidence that a stolen vehicle was a one year-old operable Ford Focus, without more, was sufficient to prove that the vehicle was at least \$500. *Id.* at 153. But here, the State was required to prove that the vehicle stolen by Benjamin was worth much more than \$500. Viewing the evidence “in the light most favorable to the prosecution,” as we are required to do, we are not persuaded that a reasonable jury could have found, beyond a reasonable doubt, that the value of the vehicle stolen by Benjamin was at least \$10,000, especially as it was a rental car that may have had unusually high mileage or abnormal wear and tear. We are, however, persuaded that the evidence was sufficient to prove that the vehicle was worth at least \$1,000.

As Benjamin does not challenge the sufficiency of the evidence that he possessed the stolen vehicle, only that the evidence did not support a finding that the vehicle was worth at least \$10,000, we remand the case to the circuit court, and direct, as Benjamin requests, that the circuit court vacate Benjamin’s conviction and enter a verdict of guilty of the lesser included offense of theft of property worth at least \$1,000 but less than \$10,000, and resentence Benjamin on that conviction. *See Smith v. State*, 412 Md. 150, 166 (2009) (If a conviction for a greater offense is reversed, a defendant may be convicted

of a lesser included offense without a new trial as long as the reversal is not due to inconsistent verdicts).

**CASE REMANDED TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY PRINCE GEORGE'S COUNTY.**