Affirmed and Opinion filed May 25, 2000.

In The

Fourteenth Court of Appeals

NO. 14-98-00767-CR

RICKEY LAMANUEL JONES, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 338th District Court
Harris County, Texas
Trial Court Cause No. 763,563

O P I N I O N

A jury found Ricky Lamanuel Jones, appellant, guilty of the felony offense of unauthorized use of a motor vehicle and assessed punishment at sixteen months in a state jail facility. TEX. PEN. CODE ANN. § 31.07(a) (Vernon 1994). In one point of error, appellant argues the evidence was legally insufficient to support his conviction. We affirm.

We review legal sufficiency challenges to determine "whether, after viewing 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." *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed.2d 560 (1979); *Malik v. State*, 953 S.W.2d 234, 240 (Tex. Crim. App. 1997). The standard is the

same in both direct and circumstantial evidence cases. *See Geesa v. State*, 820 S.W.2d 154, 162 (Tex. Crim. App. 1991).

Under Section 31.07(a) of the Texas Penal Code, the State is required to prove beyond a reasonable doubt that appellant intentionally or knowingly operated another's motor-propelled vehicle without the effective consent of the owner. *See* TEX. PENAL CODE ANN. § 31.07(a) (Vernon 1998). "Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. TEX. PENAL CODE ANN. §§ 1.07(a)(11) and 31.03(3) (Vernon 1994).

Appellant is only challenging the evidence to support the element of effective consent of the owner. He argues that the evidence is insufficient because the co-owner of the car did not testify; therefore, he contends that the State did not offer sufficient evidence to show that he used the car without the effective consent of the owner. Additionally, appellant argues that the State did not prove the complainant was "the owner" of the car because he was only a co-owner. We disagree.

An "owner" is a person who has title to the property, possession of the property, or a greater right to possession of the property than the actor. *See* TEX. PENAL CODE ANN. § 1.07(a)(35)(A) (Vernon 1994); *see also* TEX. CODE CRIM. PROC. ANN. art. 21.08 (Vernon 1998). Thus, any person who has a greater right to the actual care, custody, control or management of the property than the appellant can be classified as the "owner." *See Alexander v. State*, 753 S.W.2d 390, 392 (Tex. Crim. App. 1988); *Gray v. State*, 797 S.W.2d 157, 161 (Tex. App.—Houston [14th Dist.] 1990, no pet.).

Leroy Kolacny, the complainant, co-owned a used car business with his brother. Both brothers had an equal interest in each car on their lot. Kolacny testified he bought the car four to five weeks before the day it was stolen and never gave anyone permission to drive the car. He claimed no one could legally give consent to take the car because it was not registered and not inspected. Kolacny also testified he did not know appellant.

Viewing this evidence in the light most favorable to the jury's verdict, there was sufficient evidence from which a rational trier of fact could find beyond a reasonable doubt that the complainant had a greater

right to the actual care, custody, control or management of the vehicle than appellant. Accordingly, we overrule appellant's sole point of error and affirm the trial court's judgment.

/s/ Joe L. Draughn
Justice

Judgment rendered and Opinion filed May 25, 2000.

Panel consists of Justices Draughn, Cannon, and Hutson-Dunn.*

Do Not Publish — TEX. R. APP. P. 47.3(b).

* Senior Justices Joe L. Draughn, Bill Cannon, and D. Camille Hutson-Dunn sitting by assignment.