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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ERIC LEVI SOUTHWOOD,

Defendant and Appellant.

2d Crim. No. B232889
(Super. Ct. No. 2010039011)
(Ventura County)

Eric Levi Southwood appeals a judgment of conviction from which he was granted probation following his conviction of first degree residential burglary. (Pen. Code, §§ 459, 460.)¹ We conclude that sufficient evidence supports the trial court's finding of first degree residential burglary, and affirm.

FACTS AND PROCEDURAL HISTORY

In the afternoon of November 1, 2010, Larry Hunter left his residence on Lemar Avenue in El Rio for a brief errand. When he left, the doors to the residence and the garage were locked. Hunter returned in approximately 30 minutes and entered his home. As he looked out his patio door, he saw Southwood running from the garage carrying Hunter's soldering iron and home-movie canisters. Hunter recognized Southwood as his longtime neighbor.

¹ All further statutory references are to the Penal Code unless stated otherwise.

Hunter checked his garage and found the lock to the back door broken and a footprint on the door. Hunter had not given Southwood permission to enter his garage.

Ventura County Sheriff's Deputy Christine Rettura interviewed Southwood. Following advice of and waiver of his rights pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436, Southwood admitted that he went to Hunter's garage with a friend "to steal [Hunter's] property." Another sheriff's deputy recovered the stolen property from Southwood's residence and returned it to Hunter.

Hunter described his garage as "separate" from his residence, but attached in one corner. He stated that he stored furniture, tools, paint, and family movies in the garage and entered the garage several times a week. Hunter also stated that the garage contained his washing machine and dryer and that he laundered his clothing there. At trial, the court received evidence of photographs of the Hunter residence, the garage, and their connection point. At Southwood's request, the court clerk transmitted the photographs and we have reviewed them.

Southwood waived his right to a jury trial and the trial court convicted him of first degree residential burglary. (§§ 459, 460.) The court specifically found that Hunter's garage was connected to his residence: "[T]he exhibits are clear, and it's definitely clear it's connected. . . . [I]t's adjacent and adjoining. It is in fact contiguous."

The trial court suspended imposition of sentence and granted Southwood 36 months of formal probation with terms and conditions. The court imposed a \$200 restitution fine, a \$200 probation revocation restitution fine (stayed), a \$40 local crime prevention program fee, and a \$356.34 criminal justice administration fee. (§§ 1202.4, subd. (b), 1202.44, 1202.5; Gov. Code, §§ 29550, 29550.1.) It ordered Southwood to serve 234 days in county jail, and awarded him credit for 234 days served.

Southwood appeals and contends that there is insufficient evidence of first degree residential burglary.

DISCUSSION

Southwood argues that he committed only second degree burglary, asserting that Hunter's garage is a separate structure that is not functionally connected to

his residence. (§ 460, subd. (a) ["Every burglary of an inhabited dwelling house . . . is burglary of the first degree"]; *People v. Picaroni* (1955) 131 Cal.App.2d 612, 617 [garage was separate building from dwelling with a cement walk between them].) He points out that Hunter testified that the garage was "not part of [his] house." He adds that Hunter was not placed in physical danger by the garage burglary, so that the reason for a first degree burglary finding does not apply.

In reviewing the sufficiency of evidence to support a conviction, we examine the entire record and draw all reasonable inferences therefrom in favor of the judgment to determine whether there is reasonable and credible evidence from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Solomon* (2010) 49 Cal.4th 792, 811.) Our review is the same in prosecutions primarily resting upon circumstantial evidence. (*Ibid.*) We do not redetermine the weight of the evidence or the credibility of witnesses. (*People v. Guerra* (2006) 37 Cal.4th 1067, 1129, overruled on other grounds by *People v. Rundle* (2006) 43 Cal.4th 76, 151.)

Our burglary law rests upon the common law policy of providing heightened protection to a residence. (*People v. Cruz* (1996) 13 Cal.4th 764, 775.) "The occupied dwelling continued to receive heightened protection under our statutes in order to avoid the increased danger of personal violence attendant upon an entry into a 'building currently used as sleeping and living quarters.'" (*Ibid.*) Thus, the distinction between first and second degree burglary rests upon the perceived dangers of violence and injury involved when a residence is invaded. (*Id.* at pp. 775-776.) For this reason, courts have broadly interpreted the phrase "inhabited dwelling house" of section 460, subdivision (a), to effect the legislative purpose of the burglary statute. (*People v. Rodriguez* (2000) 77 Cal.App.4th 1101, 1107 [decisions have construed the terms "residence" and "inhabited dwelling house" to have equivalent meanings].)

The essential inquiry in determining whether a structure is part of an inhabited dwelling considers whether the structure is "'functionally interconnected with and immediately contiguous to other portions of the house.'" (*People v. Rodriguez*,

supra, 77 Cal.App.4th 1101, 1107.) "Functionally interconnected" means used in related or complementary ways; "contiguous" means adjacent, adjoining, nearby or close. (*Ibid.*)

Sufficient evidence establishes that Hunter's garage is functionally interconnected with and immediately contiguous to his residence, an inhabited dwelling. The photograph of the meeting point of the residence and the garage, admitted into evidence at trial as exhibit 3, reflects that the garage and residence are contiguous, adjoining, nearby, and close. (*People v. Rodriguez, supra*, 77 Cal.App.4th 1104, 1107.) The contiguous requirement does not demand that a door connect the garage to the interior of the residence. (*Id.* at p. 1111.) Moreover, Hunter's garage contains items directly related to his home and its maintenance--laundry facilities, gardening tools, extra furniture, and family movies. It is reasonably inferable that the garage is an integral part of his residence, deserving of greater protection from burglars. In addition, Hunter kept his garage doors locked, suggesting that he expected protection from unauthorized intrusions. (*People v. Woods* (1998) 65 Cal.App.4th 345, 349-350 [tenants had reasonable expectation that locked laundry room would be protected from unauthorized intrusions].)

The judgment is affirmed.

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GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Brian J. Back, Judge
Superior Court County of Ventura

Eric Levi Southwood, in pro. per., for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Susan Sullivan Pithey, Supervising Deputy Attorney General, Jonathan M. Krauss, Deputy Attorney General, for Plaintiff and Respondent.