

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO: 2010-AP-41-A-O
Lower Court Case No: 2010-MM-2799-A-O

MALIK MAHDI MUHAMMAD,

Appellant,
vs.

STATE OF FLORIDA,

Appellee.
_____ /

Appeal from the County Court,
for Orange County, Florida,
Leon B. Cheek, County Court Judge

Robert Wesley, Public Defender and
Kimberly M. DeVries, Assistant Public Defender,
for Appellant

Lawson Lamar, State Attorney and
David H. Margolis, Assistant State Attorney,
for Appellee

Before POWELL, GRINCEWICZ, and TURNER, J.J.

PER CURIAM.

FINAL ORDER AFFIRMING TRIAL COURT

Appellant appeals his conviction for Petit Theft. He argues that the trial court erred in denying his motions for judgment of acquittal at the close of the State's case and at the close of all the evidence. We dispense with oral argument pursuant to Florida Rules of Appellate Procedure 9.320. After careful consideration of the briefs, the record on appeal, the transcript of the trial and the applicable legal authorities, and finding no error, we affirm.

The principles applicable to the review of a denial of a motion for judgment of acquittal are as follows. The standard of review is *de novo*. An appellant admits the facts in evidence, and the appellate court must draw every conclusion therefrom favorable to the State. If after viewing the evidence most favorable to the State, a jury could find, beyond a reasonable doubt, the existence of all elements of the crime charged (here, Petit Theft of a public library book), and the exclusion of Appellant's hypothesis of innocence (that he purchased the book), a conviction should be sustained. Generally, an appellate court will not reverse a conviction which is supported by substantial evidence. See *Pagan v. State*, 830 So. 2d 792 (Fla. 2002); *J.N.N. v. State*, 877 So. 2d 806 (Fla. 5th DCA 2004).

Applying these principles to the record before us, we find that there was substantial competent evidence¹ to justify the trial court's submission of the case to the jury and to support the jury's verdict of guilty.

AFFIRMED.

DONE AND ORDERED at Orlando, Florida this 11th day of May, 2012.

/S/
ROM W. POWELL
Senior Judge

/S/
DONALD E. GRINCEWICZ
Circuit Judge

/S/
THOMAS W. TURNER
Circuit Judge

¹ Here are the facts in a nutshell. The alarm sounded when Appellant left the library. Books were demagnetized when sold, and the book in question was the only one in his bag not demagnetized. Books were stamped "withdrawn" when sold and this one was not. When books were sold bar codes were not removed but this one had the bar code removed. This book was in a FEDEX envelope in the bottom of his bag. This book was still carried in the Library's computer record and would have been removed if sold. The book was missing from its place on a 4th floor shelf. Appellant admitted being on the 4th floor earlier that day. Appellant was previously convicted of a crime of dishonesty. Appellant testified he had a receipt for the sale of the book but did not produce it at the trial.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to **Kimberly M. DeVries, Assistant Public Defender**, 435 N. Orange Avenue, Ste. 400, Orlando, Florida 32801; **Dugald McMillan, Assistant State Attorney**, 415 N. Orange Avenue, Ste. 200, Orlando, Florida 32802-1673; and **Honorable Leon B. Cheek**, 425 N. Orange Avenue, Orlando, Florida 32801, by mail, this 11th day of May, 2012.

/S/
Judicial Assistant