In the Missouri Court of Appeals
Eastern District
DIVISION THREE

STATE OF MISSOURI,	)	No. ED112852
	)	
Respondent,	)	
	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	Cause No. 2322-CR00143-01
	)	
ERIC A. PRITCHETT,	)	Honorable John T. Bird
	)	
Appellant.	)	Filed: December 2, 2025

Before Judges Renée D. Hardin-Tammons, P.J., Angela T. Quigless, J., Thomas C. Clark II, J.

Opinion

This criminal case stems from burglaries occurring at two separate downtown City of St. Louis buildings in 2022. Surveillance footage captured images of the miscreant at both locations leading a police officer to identify Appellant Eric Pritchett as the perpetrator. During the jury trial, screenshots of surveillance footage were admitted into evidence and a witness used those screenshots to identify Pritchett as the burglar. The jury convicted Pritchett of stealing $25,000 or more under section 570.030 and two counts of burglary second degree under section 569.170.[1] Pritchett raises four points on appeal. First, Pritchett argues that there was insufficient evidence to prove the value of the stolen goods was greater than $25,000. Second, he contends the circuit

[1] All statutory references are to the Revised Statutes of Missouri (2016).

court erred in overruling Pritchett's best evidence rule objection to screenshots offered into evidence by Respondent State of Missouri. In points three and four, Pritchett asserts the circuit court erred by enhancing Pritchett's sentence as a persistent offender on all counts because the State failed to plead that Pritchett was a persistent offender in the indictment or information. We affirm. Contrary to Pritchett's assertion in point one, there was specific evidence valuing the stolen goods in an amount exceeding $25,000. For point two, the best evidence rule is not implicated because the contents of the surveillance footage were never at issue. As to points three and four, we decline to exercise plain error review because Pritchett was on notice the State was seeking to enhance his sentence.

Background

Viewed in the light most favorable to the jury's verdict, the following evidence was presented at trial:

First Burglary in 100 block of N. Broadway

In January 2022, an office worker (Employee) arrived at his place of employment in the 100 block of N. Broadway and discovered that the business had been burglarized (N. Broadway burglary). Employee was working on a project to determine whether company owned laptops needed to be replaced before activating and assigning them to new employees. Employee estimated that twenty to thirty of the company's laptops were stolen overnight. Employee was able to identify only thirteen of the missing laptops by their serial numbers. Those thirteen were mostly brand new models and were still sitting next to their packaging boxes at the time they were stolen. The stolen laptops were all high end models that cost $3,000 individually. The used laptops were between one and three years old. Employee testified that the collective value of the stolen laptops was at least $60,000.

After discovering the missing laptops, Employee contacted the company's internal facilities manager who recovered the internal, business surveillance footage that was eventually admitted at trial and played for the jury as Exhibits nine and ten. The building management company also captured footage of the burglary utilizing separate surveillance equipment. The building management company's software used to record the surveillance footage was idiosyncratic and required a specialized video player to display the images. Two attempts were made to retrieve that footage for the trial. Due to either technical or human errors, the necessary video player was never obtained and the footage was unavailable for viewing at the time of trial.

However, the State managed to retrieve four screenshots from the unavailable footage which were admitted at trial as Exhibits eleven through fourteen. At trial, the building manager (Building Manager) who previously viewed the footage testified to the accuracy and authenticity of the screenshots. Exhibit eleven showed the public lobby of the building; Exhibit twelve showed the offender wearing a gray hoodie, dark pants, and black shoes with a bandana covering the lower portion of his face while walking toward the entrance to the building's public lobby; Exhibit thirteen showed the same person inside the lobby near the elevators and Exhibit fourteen showed the offender stepping out of a freight elevator which had access to the floor where the computers were located. When the State moved to admit Exhibits eleven to fourteen, Pritchett objected based on the best evidence rule, which the circuit court overruled. Building Manager testified about the screenshots' visual content, including a description of the person appearing in the screenshots. Building Manager did not testify as to the burglar's identity. Building Manager did not testify about any video content that was not readily apparent from the screenshots.

Second Burglary in 500 block of N. Thirteenth Street and Pritchett Implicated in Both Burglaries

In March 2022, the property manager of a building in the 500 block of N. Thirteenth Street arrived at work to discover her building had been burglarized and property was missing (N. Thirteenth burglary). The property manager contacted the police and showed them building surveillance footage. Due to the antiquated nature of the surveillance system, the property manager was unable to give the police a copy of the footage, so the police officers instead took photos of the screen when the video showed the identifiable features of the offender. Those photos were admitted into evidence as Exhibits twenty through twenty-two.

The security footage photos were distributed to the rest of the department, asking officers for assistance in identifying the suspect. An officer (Officer) recognized Pritchett from the photos. Officer never saw the N. Broadway burglary surveillance footage producing the screenshots memorialized as Exhibits eleven to fourteen. At trial, Officer testified that Pritchett was the person pictured in the N. Broadway business security footage admitted as Exhibits nine and ten, the person in the screenshots captured from the N. Broadway building management surveillance admitted as Exhibits twelve to fourteen, as well as the person in the photos taken from the N. Thirteenth burglary surveillance video admitted as Exhibits twenty to twenty-two.

Although the State failed to allege Pritchett was a prior and persistent offender in the indictment, the circuit court took judicial notice of two prior state convictions and found Pritchett to be a prior and persistent offender under section 558.016.[2] The jury found Pritchett guilty on all three counts and the circuit court sentenced Pritchett to fifteen years in the Missouri Department of Corrections for stealing concurrent to another ten years for the two counts of burglary second degree. After the circuit court denied Pritchett's motion for a new trial, Pritchett appealed.

[2] Pritchett pled guilty on May 6, 2008 to attempted victim tampering, a class C felony, in cause 07BB-CR01207-01 and again pled guilty on the same day to three counts of damage to jail property, a class B felony, in cause 08BB-CR00054-01.

There Was Sufficient Evidence to Prove the Value of the Stolen Laptops Exceeded $25,000

Proposing hypothetical, speculative scenarios about the computers' collective value, Pritchett specifically claims there was insufficient evidence to support a jury finding that the value of the stolen laptops exceeded $25,000, the threshold amount for a class C felony. His arguments fall short because the State provided sufficient evidence for the jury to conclude that the stolen laptops were worth $25,000 or more.

Standard of Review

On a claim of insufficient evidence, this court reviews "whether a reasonable juror could find each of the elements beyond a reasonable doubt." *State v. Grim*, 854 S.W.2d 403, 411 (Mo. banc). Evidence is viewed in the light most favorable to the State. *Id.* All evidence and inferences favorable to the verdict are to be accepted as true while all contrary evidence and inferences are to be disregarded. *State v. Nash*, 339 S.W.3d 500, 509 (Mo. banc 2011) (citing *State v. Bateman*, 318 S.W.3d 681, 686-87 (Mo. banc 2010)). This court does not reweigh the evidence or "act as a 'super juror' with veto powers, but gives great deference to the trier of fact." *Id.* (quoting *State v. Chaney*, 967 S.W.2d 47, 52 (Mo. banc 1998)). This Court "may not supply missing evidence, or give the [State] the benefit of unreasonable, speculative or forced inferences." *State v. Whalen*, 49 S.W.3d 181, 184 (Mo. banc 2001) (quoting *Bauby v. Lake*, 995 S.W.2d 10, 13 n.1 (Mo. App. E.D. 1999)).

Analysis

Without citing legal authority, Pritchett asserts that there was not enough specific testimony to corroborate Employee's testimony that the laptops were worth more than $60,000. Pritchett claims that Employee's testimony was insufficient because Employee did not testify how many of the thirteen documented laptops were new and how many were used. Pritchett also

states that there was no testimony as to how much the used laptops would be worth and how much it would cost to replace them.

Pritchett was charged with a class C felony requiring the State to prove that the value of the stolen goods was $25,000 or more. Section 570.030.4(1). The value of stolen goods is determined using the following guidelines:

> Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime. If the victim is a merchant, and the property is a type that the merchant sells in the ordinary course of business, then the property shall be valued at the price that such merchant would normally sell such property…

Section 570.020.

We hold that the jury received ample evidence to conclude the value of the laptops was greater than $25,000. Employee testified that approximately twenty to thirty laptops were stolen, his company purchased each computer for $3,000 and they were less than three years old. Employee testified that he was able to document thirteen of the missing computer's serial numbers because "most of those…were the brand-new ones" with their packaging boxes still located nearby. Considering each cost $3,000 new, the potential value of the documented computers alone is $39,000, providing sufficient evidence for the jury to value the stolen property at greater than $25,000. Employee also testified that the collective value of the goods exceeded $60,000. Though Pritchett claims there needed to be 'specific testimony' to corroborate Employee, such corroboration is unnecessary under Missouri law. An owner without experience in evaluating an item's value can provide "substantial evidence of an item's worth," so Employee's experience in valuing laptops makes his testimony even more significant. *See State v. Reilly*, 674 S.W.2d 530, 533 (Mo. banc 1984) (citations omitted). Essentially, Pritchett has listed a series of potential inferences the jury could have drawn that would have allowed them to

find the value of the laptops was less than $25,000. Pritchett's arguments consist only of the exact kinds of inferences contrary to the verdict this court ignores when evaluating the sufficiency of the evidence. *Nash*, 339 S.W.3d at 509. Point denied.

The Circuit Court Did Not Abuse Its Discretion by Overruling Pritchett's Best Evidence Rule Objection Because the Best Evidence Rule Does Not Apply

In his second point, Pritchett asserts that the court violated the best evidence rule by allowing Building Manager and Officer to testify about Exhibits eleven to fourteen, the screenshots or still photos derived from the original surveillance video from the N. Broadway burglary that the State never introduced into evidence. Pritchett states that neither Building Manager nor Officer had personal knowledge of the contents of the video so the court erred when permitting them to express an opinion about the contents of Exhibits eleven to fourteen. Pritchett's argument is a misapplication of the best evidence rule. Testimony based solely on images available to the jury does not implicate the best evidence rule.

Standard of Review

We review a circuit court's ruling on the best evidence rule for an abuse of discretion. *Student Loan Mktg. Ass'n v. Holloway*, 25 S.W.3d 699, 705 (Mo. App. W.D. 2000) (citing *Lewis v. Bucyrus-Erie, Inc.*, 622 S.W.2d 920, 925 (Mo. banc 1981)). An abuse of discretion occurs when the "court's decision to admit the evidence is not supported by substantial evidence in the record, and the decision is so clearly against the logic of the circumstances and so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration." *State v. Timbs*, 562 S.W.3d 404, 406 (Mo. App. E.D. 2018) (citing *State v. Sanders*, 473 S.W.3d 675, 676 (Mo. App. S.D. 2015)).

"The best evidence rule applies when evidence is offered to prove the contents of a writing or recording, including videotapes." *State v. King*, 705 S.W.3d 650, 656 (Mo. App. E.D.

2024) (quoting *State v. Stufflebean*, 548 S.W.3d 334, 350 (Mo. App. E.D. 2018)) (citation modified). "Where the contents of [a recording] are not directly in issue, although the evidence contained in the [recording] may bear upon a fundamental issue in the case, the best evidence rule does not apply and secondary evidence may be used without accounting for the original [video]." *State v. Fleer*, 851 S.W.2d 582, 592 (Mo. App. E.D. 1993) (citing *State v. Trader Bobs, Inc.*, 768 S.W.2d 183, 187 (Mo. App. E.D. 1989)).

Analysis

In light of the foregoing principles of law, we hold that the best evidence rule does not apply here. Pritchett claims that the State attempted to prove the contents of the video through the testimony of Building Manager and Officer. After reviewing the record however, neither Building Manager nor Officer testified as to the contents of the original surveillance video, only the screenshots. Both witnesses solely described the images as they appeared in the exhibits admitted into evidence and available to the jury. Pritchett readily concedes that the testimony "as to the actions and identity of the perpetrator depicted in the screenshots, w[as] solely reliant on the screenshots taken from the surveillance video." Testimony based 'solely' on images available to the jury does not implicate the best evidence rule. We struggle to understand how Officer's testimony could violate the best evidence rule when Officer never saw the original surveillance video and was unable to testify about its contents.

Here, the witnesses did not attempt to prove the contents of the unavailable video, rather they testified about the available screenshots. Pritchett is not claiming that Exhibits eleven to fourteen were inaccurate representations nor does he allege that the State is using those exhibits to prove anything beyond what is depicted in the screenshots. Pritchett's entire argument is that "[Building Manager and Officer] lacked first-hand personal knowledge of the perpetrator's

actions or portrayal at the time of the offenses." This does not invoke the best evidence rule, which "should be applied with common sense [distinguishing] between the true purposes of the rule and spurious purposes." *Chevalier v. Dir. of Rev*, 928 S.W.2d 388, 392 (Mo. App. W.D. 1996) (citations omitted). Since Building Manager and Officer were testifying only as to the contents of evidence available for the jury to review, excluding their testimony will not serve to "prevent fraud and the likelihood of mistake," the "obvious purpose of the rule." *State v. Macke*, 594 S.W.2d 300, 310 (Mo. App. E.D. 1980) (citing *F.C. Preuitt Const. Co., v. Doty*, 536 S.W.2d 908, 914 (Mo. App. Kansas City Dist. 1976)).

Pritchett cites two cases which perfectly demonstrate when the best evidence rule should apply and why it does not apply in this matter. In *State v. King*, 705 S.W.3d 650, 654 (Mo. App. E.D. 2024), the defendant was accused of stealing by switching barcodes on two products at a Menards. Like the instant case, screenshots of a surveillance video were admitted into evidence at trial. *Id.* However, unlike this case, witness testimony did not just describe the appearance of the screenshots. Instead, witness testimony described the actions depicted in the video that were not apparent from the screenshots themselves. *Id.* The witness testified that the video producing the screenshots showed the defendant walking toward the aisles where he allegedly switched barcodes. *Id.* This violated the best evidence rule because "[a]ny assertions, conclusions, or inferences that [the witness] drew regarding [the defendant's] action in the store was improper because the best evidence here—the video—was not properly admitted into evidence and manager did not have personal knowledge of the events." *Id.* at 658. Here, the witnesses are not testifying as to any actions exclusive to the surveillance video, their testimony is limited to what is shown in the screenshots. This distinguishes *King*, where "[m]ost critically," the witness

testimony went beyond the scope of what was depicted in the screenshots and was "the only evidence that the state relied on to prove [the defendant's actions depicted in the video]." *Id.*

This case is also dissimilar to situations where the only evidence of identification was witness testimony about the contents of a video recording. *See K.B.C. v. Juvenile Officer*, 273 S.W.3d 76 (Mo. App. W.D. 2008). In *K.B.C.*, witnesses testified at trial that video surveillance showed the defendant breaking into a vending machine. *Id.* at 78. The surveillance video itself was never shown. *Id.* Here, the jury is not being asked to blindly accept witness testimony about unavailable evidence like in *K.B.C.* Instead, they had access to the actual screenshots, could view these exhibits and form their own opinions independent of the witnesses' testimony. In fact, the jury requested, received and reviewed Exhibits twelve, thirteen, and fourteen, the screenshots from the N. Broadway burglary.

The best evidence rule does not apply because the contents of the surveillance video were never at issue. In this case, State properly introduced Exhibits eleven to fourteen into evidence. The fact that they derived from a surveillance video is immaterial to how they were used at trial. Point denied.

We Decline to Review the Circuit Court's Decision to Enhance Pritchett's Sentence

In his last two points on appeal, Pritchett argues that the circuit court erred when enhancing his sentence as a persistent offender under section 558.021. Pritchett argues that the circuit court lacks authority to enhance a sentence unless the State pleads a defendant is a prior or persistent offender in the indictment or information. Pritchett asserts that the State failed to plead that Pritchett was a prior or persistent offender and therefore it was manifest injustice to enhance Pritchett's sentence as a persistent offender. We decline to review for plain error because Pritchett was on notice that the State intended to enhance his sentence.

Standard of Review

Pritchett did not raise his third and fourth points before the circuit court and now requests this court review them for plain error. "Plain error review is discretionary and involves two steps: first, we must determine whether the trial court committed evident, obvious and clear error affecting the defendant's substantial rights; second, if plain error is found, we then consider whether the error actually resulted in manifest injustice or a miscarriage of justice." *State v. Weyant*, 598 S.W.3d 675, 678 (Mo. App. E.D. 2020) (quoting *State v. Berry*, 506 S.W.3d 357, 362 (Mo. App. W.D. 2016)).

Analysis

This court has previously held it is both plain error and manifest injustice to enhance a sentence without first pleading persistent offender status in the indictment or information. *State v. Hall*, 472 S.W.3d 207, 211 (Mo. App. E.D. 2015) (citing *Nesbitt*, 299 S.W.3d at 30). If applied as an inflexible rule, this creates a perverse incentive encouraging defendants to allow the trial court to commit error as a strategic choice.[3]

We now hold that when there is sufficient evidence on the record that a defendant was on notice of the State's intention to enhance a sentence using persistent offender status and failed to object, an appellate court is within its discretion to decline plain error review. *Contra State v. Nesbitt*, 299 S.W.3d 26, 30 (Mo. App. E.D. 2009) ("Where it appears that the trial court

[3] For example, assume a defendant is aware that the State intends to enhance their sentence based on persistent offender status without having first included the requisite pleading. If the defendant in this scenario objects, the State can file a motion to amend the indictment or information, curing the error and subjecting the defendant to an enhanced sentence. *McBenge v. State*, 657 S.W.3d 268, 273 (Mo. App. E.D. 2022) (citations omitted). If the defendant does not object, and the State does not catch the error, the defendant can raise on appeal which merits automatic reversal under *Nesbitt*. *Nesbitt*, 299 S.W.3d at 30.

improperly sentenced the defendant as a prior or persistent offender, plain-error review is appropriate." (citing *State v. Manley*, 223 S.W.3d 887, 892 (Mo. App. W.D. 2007))).

The record demonstrates that Pritchett was on notice that the State intended to prove Pritchett was a persistent offender. Pritchett submitted a pretrial motion in limine that sought to prohibit the State from "introducing any evidence or referring in any way to arrests, pending charges, or prior convictions of [Pritchett] except to the extent necessary for the state to prove defendant's prior felony conviction." When hearing argument surrounding the motion before trial, the court asked if the State intended to prove Pritchett's convictions in order to remove sentencing from the jury and enhance Pritchett's punishment. The State responded that they were "pulling his priors right now." Pritchett had ample notice, time and opportunity to object to the enhanced sentence. We exercise our discretion to decline to perform plain error review. Point denied.

Conclusion

We affirm the circuit court's judgment.



THOMAS C. CLARK II, J.

Renee D. Hardin-Tammons, P.J. and
Angela T. Quigless, J., concur.