

fiberglass insulation, all seized from the defendant's car parked several blocks away from the store. These items constituted circumstantial evidence, and were appropriately identified by the officer who performed the inventory of defendant's car. Circumstantial evidence may be used as proof of a crime and can support a finding of guilt beyond a reasonable doubt. *State v. Shippee*, 115 N.H. 694, 696, 349 A.2d 587, 588 (1975); *State v. Davis*, 108 N.H. 45, 50, 226 A.2d 873, 877 (1967). Defendant also claims that the exhibits were prejudicially shown to the jury by being spread on a table in the courtroom. As admitted evidence, the items were properly presented for the consideration of the jury. *See State v. Brough*, 112 N.H. 182, 291 A.2d 618 (1972).

■ The defendant finally alleges error in the trial court's admission of Officer Brousseau's statement under cross-examination that the defendant was a "professional burglar." This testimony was elicited by defense counsel, who neither requested that the answer be stricken nor raised an objection nor requested an exception. Defendant is therefore precluded from raising the matter on appeal. *State v. Blake*, 113 N.H. 115, 120, 305 A.2d 300, 304 (1973); *Bourget v. Company*, 98 N.H. 237, 244, 97 A.2d 383, 388 (1953).

Other rulings of the trial court properly sustained objections of the prosecuting attorney on the grounds that defense counsel's questions called for conclusions of the witness, were indefinite and uncertain, were argumentative, or were unnecessarily repetitious.

Defendant's exceptions overruled.

All concurred.

Keene District Court
No. 7701

KATHARINE SULLIVAN

v.

DAVID RINGLAND

July 11, 1977

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Olson, McMahon & Rogers, of Keene (Mr. Lewis A. McMahon orally), for the plaintiff.

Faulkner, Plaut, Hanna, Zimmerman & Freund, of Keene, and Joseph W. Worthen, II (Mr. Worthen, II orally) for the defendant.

MEMORANDUM OPINION

Katharine Sullivan, the plaintiff, seeks to replevy a dog (Gun Thunderhill Sully) in the possession of David Ringland, the defendant. A hearing was held in district court, but no transcript thereof was made. The District Court (Richard J. Talbot, Special Justice) denied replevin, and plaintiff's exceptions have been reserved and transferred.

The outlines of the dispute are clear enough. Plaintiff purchased Gun in early 1974, apparently as a birthday present for her then husband. Several months thereafter, Gun was registered in the names of plaintiff and her husband. Husband and wife separated and later divorced; the husband remained in the house with Gun and planned to take care of the dog until plaintiff had relocated. These plans were soon changed; one month after the separation, the husband made a gift of Gun to the defendant, thereby undoubtedly delighting defendant's young son (Kerry). When plaintiff learned of the gift, she instituted this action.

[REDACTED] The district court found that at the time of the gift the husband and wife owned Gun jointly. In the absence of a transcript of the proceedings, we are not in a position to question the sufficiency of the evidence supporting this finding. *Merchants Nat'l Bank v. Adams*, 114 N.H. 46, 314 A.2d 664 (1974). The gift was effective to transfer the husband's interest. 20 Am. Jur. 2d Co-

[REDACTED]

tenancy and Joint Ownership § 94 (1965). In these circumstances, the law is clear that replevin against the donee of a cotenant will not lie. *Witham v. Witham*, 57 Me. 447 (1870); Annot., 93 A.L.R.2d 358 (1964). There was no error in denying the petition.

Exceptions overruled.

[REDACTED]

Carroll
No. 7706

FREDERICK AND MARTHA KILROE

v.

CHARLES N. AND INGE E. TROAST

July 11, 1977

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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