

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MELVIN TROY EDWARDS,

Defendant-Appellant.

UNPUBLISHED

January 31, 1997

No. 188471

LC No. 95-8343-FC

Before: Holbrook, Jr., P.J., and White and A.T. Davis, Jr.,* JJ.

PER CURIAM.

Following a jury trial, defendant Melvin Troy Edwards was convicted of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3), and receiving and concealing stolen firearms, MCL 750.535b; MSA 28.803(2). He was sentenced to serve nine to thirty years imprisonment for the home invasion conviction and five to twenty years imprisonment for the firearm conviction. He appeals as of right and we affirm.

Defendant first argues that there was insufficient evidence to justify his convictions. This Court reviews a sufficiency of the evidence claim de novo; therefore, viewing the evidence in a light most favorable to the prosecution, this Court must determine whether a rational trier of fact could have found that the essential elements of the crimes were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108, 113 (1994).

Regarding his home invasion conviction, defendant disputes whether the prosecution proved beyond a reasonable doubt that he broke into and entered the home located at 2511 Bertrand Road in Niles. Defendant argues that: no one saw defendant break into the home, no fingerprint identification of defendant was obtained from the home, and defendant testified that he was never in the home. However, the prosecution clearly established this element of the crime at trial.

The prosecution first presented evidence through eyewitness testimony that defendant was outside the home, that defendant ran out of the front door of the home, and that defendant dropped

* Circuit judge, sitting on the Court of Appeals by assignment.

everything he had in his arms onto the ground and ran toward the road. The prosecution next presented evidence through the officer's testimony that defendant was apprehended outside this dwelling, that defendant resisted arrest, and that defendant had several of the items reported stolen on his person. Through the testimony of the evidence technician in this case, the prosecution presented evidence that some force had been used in breaking into the home because the door had been kicked in. Finally, the testimony of defendant's accomplice corroborated the earlier evidence that defendant committed the crime of home invasion.

"Circumstantial evidence and reasonable inferences arising from the evidence may constitute satisfactory proof of the elements of the offense." *People v Wolford*, 189 Mich App 478, 480 (1991). Therefore, the prosecution presented sufficient evidence from which the jury could conclude beyond a reasonable doubt that defendant committed the crime of home invasion.

Defendant next contends that there was insufficient evidence to support his conviction for receiving and concealing stolen firearms. The prosecution was required to prove that the firearms were stolen and that defendant either transported, received or concealed the firearms knowing that they were stolen. MCL 750.535b; MSA 28.803(2); *People v Adams*, 202 Mich App 385, 390; 509 NW2d 530 (1994).

Defendant argues that because he was acquitted of the home invasion charge regarding the home from which the firearms were stolen, he was implicitly found not guilty of stealing those firearms. While the prosecution must show that the firearms were stolen, it does not necessarily have to show that anyone was actually convicted of stealing the firearms. *People v Slate*, 73 Mich App 126, 135; 250 NW2d 572, 577 (1977). The homeowner testified that the firearms found in the car in which, according to defendant's accomplice, defendant rode to the two burglarized homes were the ones stolen from her home. Thus, the prosecution presented evidence which showed that the firearms were stolen.

Defendant next argues that the evidence for the stolen firearms conviction was insufficient because he was not driving the car in which the firearms were found and because he did not know the firearms were stolen. Guilty knowledge, by its very nature, must usually be inferred from all of the circumstances of the case. *People v Scott*, 154 Mich App 615, 617; 397 NW2d 852, 853 (1991). Defendant's accomplice testified that he drove around the block while defendant went into the home and that when he picked defendant up, defendant was carrying a bag that contained the firearms. He further testified that defendant placed the bag in the car. The two of them then proceeded to the second house that was burglarized. From that the jury could reasonably infer that defendant transported and concealed firearms which he knew to be stolen. Therefore, there was sufficient evidence from which a rational jury could conclude beyond a reasonable doubt that the prosecution proved the elements of the crime.

Defendant next argues that his sentence is disproportionate under *People v Milbourn*, 435 Mich 660; 461 NW2d 1 (1990). This Court reviews a proportionality of the sentence claim for an

abuse of discretion by the sentencing court. *People v Cervantes*, 448 Mich 620, 626; 532 NW2d 831, 833 (1995). The sentencing court in this case appropriately considered defendant's criminal record, the seriousness of the crimes, and the fact that the crimes were committed while the defendant was serving probation. Because defendant's sentence does not violate the principle of proportionality, the sentencing court did not abuse its discretion.

Defendant's final argument is that the trial court abused its discretion in not allowing defense counsel to fully cross-examine defendant's accomplice regarding a plea agreement. Defendant claims that because the witness' credibility was a key issue in defendant's trial, the trial court's rulings not only violated defendant's Sixth Amendment right of confrontation but also denied defendant a fair trial. This Court reviews a trial court's decision to limit cross-examination for an abuse of discretion. *People v Minor*, 213 Mich App 682, 684; 541 NW2d 576, 579 (1996).

As a general rule, a witness' pending charges may not be used for impeachment purposes. *People v Falkner*, 389 Mich 682; 209 NW2d 193 (1973). However, the interest of a witness in the outcome of a trial is so central to the credibility of the testimony that inquiry concerning pending charges as they relate to the witness' motive in testifying is permitted. *People v Hall*, 174 Mich App 686, 690-691; 436 NW2d 446, 448 (1989). Therefore, the prosecution is obligated to disclose to the jury any inducements or consideration given to a witness in exchange for the testimony. *People v Dowdy*, 211 Mich App 562, 570-571; 536 NW2d 794, 798 (1995).

In this case, Olu Butler, defendant's accomplice and cousin, testified against defendant. On direct examination, the prosecution brought out the existence of the plea bargain, but did not ask Butler about any sentencing consideration he may have received in return for testifying. On cross-examination, defense counsel attempted to question Butler about sentencing considerations, but the prosecution objected and the trial court sustained the objections.

The trial court later stated on the record that it sustained the objection because the form of defense counsel's question was improper. The court clearly stated that questions as to any leniency which Butler may have received from the prosecution were admissible. Additionally, before the jury was brought in on the second day of trial, the court again gave defense counsel the opportunity to recall Butler for this purpose. Defense counsel did not recall Butler for further cross-examination.

Even if the exclusion of the testimony was in error, the error is harmless in light of the totality of the evidence regarding Butler's credibility. *Minor, supra*, 213 Mich App 688. First, the jury knew about the existence of the plea agreement because Butler testified about it on direct examination and the agreement itself was admitted as an exhibit. Also, there is nothing in the record to show that the prosecution promised Butler additional leniency beyond the plea agreement. Finally, the jury heard from defendant himself regarding Butler's credibility.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ Alton T. Davis, Jr.