

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES MICHAEL BANKS a/k/a
CHARLES MICHAEL HAWKS,

Defendant-Appellant.

UNPUBLISHED

March 21, 1997

No. 189430

Montmorency Circuit Court

LC No. 95-000878-FH

Before: McDonald, P.J., and Griffin and Bandstra, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of larceny over \$100, MCL 750.356; MSA 28.588. Defendant was sentenced to five years' probation with the first sixty days to be served in jail. He appeals as of right. We affirm.

Defendant claims that the evidence presented at trial was insufficient to convict him of larceny over \$100 because there was alternative evidence supporting his theory that his truck had been stolen on the morning of January 13, 1995. Defendant argues that it was therefore unreasonable for the jury to infer that he was present in his truck at 1:30 a.m. We disagree.

This Court will not interfere with the jury's role of determining the weight of the evidence or credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992). A witness testified that he saw two occupants of defendant's truck steal a snowmobile at approximately 1:30 a.m. on January 13, 1995. Another witness testified that he saw defendant in the truck at 1:00 a.m. A number of other witnesses placed defendant's truck near the scene of the crime at approximately the time the crime occurred. Moreover, the jury had reason to find that defendant's claims that his truck was stolen were incredible. The only evidence that defendant's truck was actually stolen was his statements to the police and his girlfriend. Defendant also told the police that he had been at his girlfriend's house since 10:40 p.m. the previous night. However, a witness testified that she saw defendant in his truck at approximately 11:00 to 11:30 p.m. that evening and at approximately 1:00 a.m. the next morning. Furthermore, an investigating police officer testified that at 3:00 a.m. that morning,

defendant's girlfriend searched the house and told the officer that defendant was not in the residence. Because credibility is a question for the jury and there was otherwise sufficient circumstantial evidence to establish that defendant was in his truck when the snowmobile was taken, there was sufficient evidence to convict defendant. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993).

Affirmed.

/s/ Gary R. McDonald

/s/ Richard Allen Griffin

/s/ Richard A. Bandstra