

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHAVES N. DOOLEY,

Defendant-Appellant.

UNPUBLISHED

May 19, 1998

No. 201642

Recorder's Court

LC No. 96-004008

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHAVEZ N. DOOLEY,

Defendant-Appellant.

No. 201716

Recorder's Court

LC No. 96-004009

Before: Neff, P.J., and O'Connell and Young, Jr., JJ.

PER CURIAM.

Defendant Chavez¹ N. Dooley appeals as of right from his bench trial convictions for receiving and concealing stolen property in excess of \$100, MCL 750.535(1); MSA 28.803(1), and larceny from a motor vehicle, MCL 750.356a; MSA 28.588(1). For each offense defendant was sentenced to two to five years' imprisonment, the sentences to run concurrently.² We affirm.³

Defendant challenges his conviction solely on the basis that the prosecution failed to present sufficient evidence to support his convictions. When reviewing the sufficiency of evidence in a criminal case, this Court must view the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the elements of the crime were proved beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994).

The felony of receiving or concealing stolen property requires a showing that property worth over \$100 was stolen, and that the defendant received or concealed that property knowing that it was stolen. *Michigan v Adams*, 202 Mich App 385, 390; 509 NW2d 530 (1993). The felony of larceny from a motor vehicle requires a showing that the defendant, without the owner's consent, removed specified property or property worth more than \$5 from a motor vehicle, intending permanently to deprive the owner of the property. *People v William James*, 142 Mich App 225, 228; 369 NW2d 216 (1985); *People v Nichols*, 69 Mich App 357, 359; 244 NW2d 335 (1976). On appeal, defendant does not dispute that the crimes took place, but instead argues that there was insufficient evidence to link defendant to the crimes.

The prosecution relied primarily on the testimony of James McGhee, who witnessed the crimes while patrolling the Focus Hope parking lot in Detroit as a security guard. According to McGhee, in the first incident, he noticed defendant carrying a car radio when leaving a mini-van whose window had been broken. McGhee recognized defendant's face, but did not know defendant's name. Several months later, McGhee witnessed two individuals stealing a car from the Focus Hope lot, one of whom he recognized as defendant. McGhee identified defendant as the person he recognized from the crimes, both in open court and from several photographs that police had presented.

However, McGhee's initial statements to police did not comport perfectly with the evidence. Regarding the first incident, McGhee estimated that the culprit was five foot six, and regarding the car theft, McGhee estimated the culprit's height at five foot seven or eight. In fact, defendant stands at six foot three. Further, McGhee failed to mention the radio in connection with the first incident. Defendant argues that McGhee fabricated his testimony in order to relieve himself of responsibility for failing to prevent the crimes. We do not find these arguments persuasive.

Inaccuracies in identification do not render testimony invalid, but rather present a credibility question for the trier of fact. *People v Pennington*, 113 Mich App 688, 694; 318 NW2d 542 (1982). McGhee's description of defendant was deficient only with respect to defendant's height. The trial court could reasonably credit McGhee's unequivocal identification of defendant in open court despite that single discrepancy. Similarly, McGhee's failure to mention the radio in initial statements to police presents at best a minor credibility question in light of McGhee's subsequent testimony regarding seeing both defendant carrying a car radio and discovering that the vehicle had been broken into and had a hole where a radio belonged. Finally, defendant's hypothesis that McGhee had a motive to lie was purely a question of credibility for the trier of fact to resolve. Credibility is a matter for the trier of fact to ascertain; this Court will not consider it anew. *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990). The trial court was free to credit McGhee's description of events and identification of defendant in the face of doubts raised by the defense.

Thus, the evidence, considered in the light most favorable to the prosecution, could reasonably lead a rational trier of fact to conclude beyond a reasonable doubt that defendant had perpetrated the crimes for which he was convicted.

Affirmed. In accordance with footnote 3, we instruct the trial court to enter amended judgments of sentence that accurately reflect the applicable statutory provisions.

/s/ Janet T. Neff
/s/ Peter D. O'Connell
/s/ Robert P. Young, Jr.

¹ Defendant's given name appears variously in the lower court files as Chavez, Chaves, Chivas, and Chavis.

² The two lower court files were consolidated for trial. These cases have likewise been consolidated for appeal.

³ Although neither party mentioned it, we observe that the judgments of sentence inaccurately cite the criminal statutes under which defendant was convicted. Receiving stolen property is given as MCL "750.535A," but should read MCL 750.535(1); larceny from a motor vehicle is given as MCL "750.356A-B," but the applicable portion of the statute is in fact MCL 750.356a.