

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY KENT SUPER,

Defendant-Appellant.

UNPUBLISHED
October 19, 1999

No. 206774
Calhoun Circuit Court
LC No. 97-001156 FH

Before: Neff, P.J., and Murphy and J. B. Sullivan*, JJ.

PER CURIAM.

After a jury trial, defendant was sentenced as a third habitual offender, MCL 769.11; MSA 28.1083, to serve a term of two to ten years' imprisonment for his conviction of receiving and concealing stolen property over \$100, MCL 750.535; MSA 28.803. Defendant appeals as of right. We affirm.

This case arises out of the breaking and entering of an automobile sales office in February 1997. Defendant was arrested within several minutes of the crime, and within blocks of the scene after being found pushing a disabled vehicle which contained property stolen from the sales office. On appeal, defendant argues that his conviction must be reversed because the prosecution failed to produce sufficient evidence to support his conviction. We disagree.

When determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Godbold*, 230 Mich App 508, 522; 585 NW2d 13 (1998). The elements of receiving and concealing stolen property with a value exceeding \$100 are that (1) the property was stolen, (2) the property has a fair market value of over \$100, (3) the defendant bought, received, possessed, or concealed the property with knowledge that the property was stolen, and (4) the property was identified as being previously stolen. *People v Gow*, 203 Mich App 94, 96; 512 NW2d 34 (1993).

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

Defendant's sole argument on appeal is that the prosecutor failed to produce sufficient evidence to establish that defendant knowingly concealed stolen property. "Because of the difficulty in proving a defendant's state of mind, circumstantial evidence is often necessary and is wholly satisfactory in sustaining a conclusion that the defendant possessed the requisite intent." *People v Perez-DeLeon*, 224 Mich App 43, 59; 568 NW2d 324 (1998). Here, a review of the evidence produced at trial, together with the reasonable inferences arising therefrom, indicates that defendant knew that the stolen goods were contained in the trunk of the automobile.

At trial, the first officer to respond to the sales office testified that he arrived at the scene just after 5:55 a.m., only one to two minutes after the office alarm had been tripped. He found that the perpetrators had already left the scene. A second officer testified that within two to three minutes of receiving the call regarding the alarm, he passed defendant and a second individual only a few blocks from the scene, pushing the disabled car that was ultimately found to contain the stolen goods. The testimony of these officers places defendant near the scene and in possession of the stolen property within only minutes of the breaking and entering. Moreover, this testimony conflicts with defendant's explanation that the car had broken down sometime just after 4:30 a.m. When addressing an issue concerning the sufficiency of evidence, all conflicts in the evidence must be resolved in favor of the prosecution, *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997), and this Court will not interfere with the jury's role of determining the weight of evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). Under these circumstances, it is reasonable to infer that defendant had knowledge of the stolen merchandise in the trunk of that vehicle. Thus, we conclude that a reasonable jury could find beyond a reasonable doubt that defendant had the requisite knowledge to support a conviction under the charged crime.

Affirmed.

/s/ Janet T. Neff
/s/ William B. Murphy
/s/ Joseph B. Sullivan