

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFREY BROWN,

Defendant-Appellant.

UNPUBLISHED
November 2, 1999

No. 207946
Recorder's Court
LC No. 97-004077

Before: Whitbeck, P.J., and Gribbs and White, JJ.

PER CURIAM.

Following a bench trial, the trial court convicted defendant Jeffrey Brown of unlawfully driving away an automobile, MCL 750.413; MSA 28.645, and sentenced him to one to five years' imprisonment. Brown appeals by right. We affirm.

I. Basic Facts and Procedural History

At trial, the victim testified that in April 1997, she was temporarily residing at a friend's house. On the day of the alleged offense, the victim stated that before she left to pick up her daughter, she saw Brown and another man from the neighborhood known as "Boogie" standing beside her car in front of the house. The victim left in her car, and when she returned approximately fifteen minutes later, the two men were not in sight. The victim parked her car and went into the house so her daughter could drop off her book bag. A few minutes later, as she was preparing to leave again near the front porch of her house, she turned around and saw Brown driving off in her car. Although she did not get a look at the driver's face, she recognized Brown from seeing him standing beside her car earlier. Days after reporting the incident to the police, she saw Brown driving her car in her neighborhood on several different occasions. Brown took the witness stand and denied ever driving or riding in the victim's car.

In closing argument, Brown's trial counsel argued that the victim was merely assuming that the man she saw driving her car away was Brown, because she had observed Brown standing beside her car earlier that day. The trial court disagreed, stating its findings and conclusions on the record as follows:

Well, the question was asked at least four times was she assuming that the person was the same, and she interrupted each time and said, “I’m not assuming anything, that’s him.” And then, too, she had more than one occasion to view the person. So this is not one isolated, quick event, this is something that went over a period of time.

The identification in this case is about as positive as the identification can get and there was no authority for taking and driving away this car. So the Court will find him guilty of Unlawfully Driving Away an Automobile, Count-I.

II. The Credibility of the Evidence

A. Brown’s Argument

Brown argues that the trial court clearly erred in finding him guilty because there was no credible evidence that he took away or assisted in taking away the victim’s vehicle. Specifically, Brown challenges the reliability and credibility of the victim’s identification testimony. Brown notes that the victim admitted that she did not see the face of the man who drove her car away and that, during her preliminary examination testimony, she never mentioned that she had seen Brown standing near her car earlier that day. Brown contends that her alleged identification of him driving her car away was tainted by her observation of him earlier that day. With regard to the victim’s subsequent observations of Brown driving or riding as a passenger in her car, Brown asserts that those alleged observations have no bearing on the charge of unlawfully driving away an automobile. Thus, he essentially contends that there was insufficient evidence to convict him.

B. Standard of Review

When reviewing the sufficiency of the evidence following a bench trial, this Court views the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements of the crime proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). Accordingly, this Court will rarely, if ever, disturb the judgment of the trial court as trier of fact on questions of the weight and credibility of identification testimony. See, e.g., *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

C. The Trial Court’s Decision

We find that the trial court’s acceptance of the victim’s identification testimony was not clearly erroneous. Although the victim did not see the driver’s face at the time her car was taken, she was able to recognize the driver as Brown. The victim knew who Brown was and had recognized him standing beside her car earlier that day as well. As the trial court noted, the victim stressed that she recognized Brown as the person who drove her car away, and she did not simply assume that the driver was Brown. We further find that the victim’s identification testimony is not substantially undermined by her failure to mention, during her preliminary examination testimony, that she had seen Brown beside her car earlier because she was never asked about her earlier observations during the preliminary examination.

To some extent, Brown also appears to be challenging the sufficiency of the trial court's articulation of its findings. Contrary to Brown's argument, the trial court was not obliged to make specific findings regarding each element of the offense, nor was it necessary for the trial court to discuss all the evidence bearing on the victim's credibility. As the prosecution notes, a trial court's findings are sufficient if they indicate that the court was "aware of the issues in the case and correctly applied the law." *People v Legg*, 197 Mich App 131, 134; 494 NW2d 797 (1992). Moreover, it is unnecessary to remand a case for further articulation of findings if it is "manifest" that the trial court was aware of and resolved the factual issues and further findings would not "facilitate appellate review." *Id.* at 134-135. Here, the trial court's findings were sufficient, although brief, since it plainly appears that the trial court was aware of the credibility issue concerning the victim's testimony and resolved that issue in the prosecution's favor. We conclude that further findings would not facilitate appellate review.

Affirmed.

/s/ William C. Whitbeck

/s/ Roman S. Gibbs

/s/ Helene N. White