

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HAROLD DOUGLAS WORRELL,

Defendant-Appellant.

UNPUBLISHED

April 21, 2000

No. 216162

Washtenaw Circuit Court

LC No. 97-009066-FH

Before: Collins, P.J., and Neff and Smolenski, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of malicious destruction of a building with damages exceeding \$100, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At trial, the evidence showed that defendant, while trying to break into a home occupied by Ronald and Janet Layne, caused damage to the home. Janet Layne testified that after the incident, repairs were made to the home. She indicated that she and her husband received insurance benefits; however, they paid a \$250 deductible.

The trial court found defendant guilty of breaking and entering without permission, MCL 750.115; MSA 28.310 (a conviction not appealed), and malicious destruction of a building. The court inferred from the testimony regarding payment of the deductible that the damage caused by defendant exceeded \$100, and stated that it would use common sense and everyday experience to so find.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990). The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *Vaughn, supra* at 379-380.

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), lv gtd 461 Mich 880 (1999).

The elements of malicious destruction of a building are: (1) the building, or a permanent attachment thereto, belonged to someone other than the defendant; (2) the defendant destroyed or damaged the building or a permanent attachment; (3) the defendant did so knowing that it was wrong, without just cause or excuse, and with the intent to damage or destroy the property; and (4) the damage exceeded \$100. CJI2d 32.3. The amount of damage caused by the defendant may be established by showing either the difference in the fair market value of the property, or the reasonable cost to repair or restore the property. *People v LaBelle*, 231 Mich App 37, 38; 585 NW2d 756 (1998); *People v Hamblin*, 224 Mich App 87, 96; 568 NW2d 339 (1997).

Defendant argues that the evidence produced at trial was insufficient to support his conviction of malicious destruction of a building. He contends that insufficient evidence was presented to establish the cost of repairing the damage. We disagree and affirm. Initially, we find that, contrary to defendant's assertion, the trial court relied on both the evidence presented and common sense and everyday experience to find that the damage caused by defendant exceeded \$100. The trial court clearly stated that it relied on Janet Layne's testimony regarding payment of a \$250 deductible, as well as common sense and everyday experience. The trial court did not improperly go outside the record to determine defendant's guilt. Cf. *People v Simon*, 189 Mich App 565, 567-568; 473 NW2d 785 (1991).

Furthermore, sufficient evidence was presented to establish that the damage done by defendant to the Layne residence exceeded \$100. Janet Layne testified that she and her husband paid a \$250 insurance deductible for repairs necessitated by the damage done by defendant. From this evidence the trier of fact could infer that the amount of the damage done by defendant exceeded \$100. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction of malicious destruction of a building. *Petrella, supra*.

Affirmed.

/s/ Jeffrey G. Collins

/s/ Janet T. Neff

/s/ Michael R. Smolenski