

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS MARNEY,

Defendant-Appellant.

UNPUBLISHED

August 29, 2000

No. 218221

Ingham Circuit Court

LC No. 97-071926-FH

Before: Owens, P.J., and Jansen and R. B. Burns*, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of larceny from a person, MCL 750.357; MSA 28.569, and felonious assault, MCL 750.82; MSA 28.277. The trial court sentenced defendant to five years' probation, with the first 365 days in jail and credit for 121 days served. Defendant appeals his convictions as of right. We affirm.

Defendant argues that there was insufficient evidence presented at trial to support his conviction of larceny from a person. Specifically, defendant argues that there was insufficient evidence that he intended to permanently deprive the victim of her property. We disagree. This Court reviews a challenge to the sufficiency of the evidence in criminal matters de novo. *People v Sherman-Huffman*, ___ Mich App ___; ___ NW2d ___ (Docket No. 217609, issued 5/26/00), slip op at 1. When determining whether there was sufficient evidence to support a conviction, this Court reviews the evidence in a light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999).

The elements of larceny from a person are (1) an actual or constructive taking of goods or property, (2) a carrying away or asportation, (3) the carrying away must be with felonious intent, (4) the subject matter must be the goods or personal property of another, and (5) the taking must be without the consent and against the will of the owner. *People v Ainsworth*, 197 Mich App 321, 324; 495 NW2d 177 (1992). "Felonious intent," the element at issue in this case, means the intent to

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

permanently deprive the owner of his or her property. *People v Cain*, 238 Mich App 95, 119; 605 NW2d 28 (1999).

Defendant's argument is without merit. First, defendant asks this Court to weigh the evidence and determine the credibility of the witnesses, which are exclusive tasks for the trier of fact. *Id.* When analyzing a challenge to the sufficiency of the evidence, this Court merely determines whether there was sufficient evidence to prove every element of the offense beyond a reasonable doubt. *Id.* at 119-120. Here, there was sufficient evidence presented at trial that defendant intended to permanently deprive the victim of her property. Several witnesses testified that they saw defendant take the purse out of the victim's car and leave the scene. Moreover, the victim testified that defendant did not return the purse to her and that she found it at the home of defendant's cousin approximately six months after the incident. Viewing this evidence in a light most favorable to the prosecution, there was sufficient evidence to sustain defendant's conviction of larceny from a person.

Defendant also argues that there was insufficient evidence presented at trial to support his felonious assault conviction. Specifically, defendant argues that there was insufficient evidence that he intended to injure the victim and that he assaulted her as he drove away in his car. We disagree.

The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery. *Avant, supra* at 505. Here, both the victim and an uninterested witness in this case testified that defendant saw that the victim was behind his car. Moreover, the victim and two other witnesses testified that defendant nevertheless backed his car into the victim and then quickly drove away. Viewing this evidence in a light most favorable to the prosecution, a rational trier of fact could conclude that defendant intended to injure the victim and that he assaulted her as he drove away in his car.

Affirmed.

/s/ Donald S. Owens
/s/ Kathleen Jansen
/s/ Robert B. Burns