

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEWITT M. BROWN,

Defendant-Appellant.

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UNPUBLISHED

December 12, 2000

No. 216370

Wayne Circuit Court

LC No. 98-006905

Before: Collins, P.J., and Jansen and Whitbeck, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of carjacking, MCL 750.529a; MSA 28.797(a), armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to five to fifteen years' imprisonment for the carjacking conviction, to run concurrently with his sentence of five to fifteen years' imprisonment for the armed robbery conviction, and consecutively to the mandatory two-year sentence for the felony-firearm conviction. We affirm.

Defendant argues on appeal that there was insufficient evidence presented for the trial court to find him guilty beyond a reasonable doubt. Defendant specifically contends that the trial court erred in its factual findings. When reviewing a claim of insufficient evidence, this 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 Reid*, 233 Mich App 457, 466; 592 NW2d 767 (1999). Circumstantial evidence and reasonable inferences arising from that evidence may be sufficient to prove the elements of a crime. *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999). We review the trial court's findings of fact for clear error. MCR 2.613(C); *People v Lester*, 232 Mich App 262, 271; 591 NW2d 267 (1998). A trial court's factual findings are clearly erroneous if, after review of the record, this Court is firmly convinced that a mistake has been made. *People v Givans*, 227 Mich App 113, 119; 575 NW2d 84 (1997). This Court will not weigh the credibility of witnesses or substitute its assessment of the testimony for that of the trial court. MCR 2.613(C); *People v Sexton (After Remand)*, 461 Mich 746, 752; 609 NW2d 822 (2000), quoting *People v Sexton (On Remand)*, 236 Mich App 525, 543; 601 NW2d 399 (1999) (Murphy, J. dissenting).

In concluding that defendant was guilty beyond a reasonable doubt of the crimes charged, the trial court found the complainant's testimony to be credible and relied on her identification of defendant as the perpetrator. The court did not clearly err. The complainant, Khristine McGhee, identified defendant as the perpetrator both in a lineup and in court. McGhee was able to see the carjacker when he stood in front of her car's windshield, and his face was only 1-1/2 feet from her own as she exited the car. Although the street was not well-lit, McGhee was parked next to the front door of the Texas Bar-B-Q restaurant, where the interior lights were on. She testified that she saw the carjacker "very clearly." Defendant suggests that Tony Dion Moore, who Detroit Police Officer James McKenzie found driving the stolen car, was more likely the carjacker. Both Moore and defendant were seen in the stolen car in the seven days following the carjacking. However, two descriptions McGhee gave to the police after the incident matched defendant, not Moore, who is considerably shorter than defendant. Furthermore, McGhee was unable to pick out the carjacker when she viewed Moore in a lineup, but later identified defendant as the perpetrator in a second lineup.

Defendant also argues that he had an alibi for the time of the carjacking, and that he was only charged in this case because Moore's girlfriend, Tonya Ellis, told police that defendant stole the car. However, defendant was charged based on McGhee's identification, not Ellis' statement, and the trial court did not rely on Ellis' testimony in its decision. Although defendant's mother and sister did testify that defendant was home the entire night of the carjacking, they did not actually see him in the house at the time of the incident, and only assumed that he had not left because they did not hear him do so. Accordingly, the trial court did not clearly err in finding that defendant's family could not testify as to his whereabouts.

We conclude that the trial court did not clearly err in its factual findings and that there was sufficient evidence to find defendant guilty beyond a reasonable doubt of the charged crimes.

Affirmed.

/s/ Jeffrey G. Collins  
/s/ Kathleen Jansen  
/s/ William C. Whitbeck