STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED March 23, 2001
v	No. 219383 Macomb Circuit Court
JAYSON JOSEPH SELEWSKI, Defendant-Appellant.	LC No. 98-002543-FH

Before: Bandstra, C.J., and Griffin and Collins, JJ.

PER CURIAM.

Defendant was convicted by a jury of breaking and entering a motor vehicle with damage to the vehicle, MCL 750.356a; MSA 28.588(1), and pleaded guilty to habitual offender, third offense, MCL 769.11; MSA 28.1083. He was sentenced to a term of twenty-two months to twelve years' imprisonment, to be served consecutively to his sentence for a pending parole violation. Defendant appeals as of right. We affirm.

Defendant first argues that the evidence was insufficient to support his conviction. We disagree. We review a claim of insufficient evidence to determine whether the evidence, viewed in a light most favorable to the prosecution, would permit a rational trier of fact to find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Oliver,* 242 Mich App 92, 94-95; 617 NW2d 721 (2000). Here, where an eyewitness testified that he saw defendant break the window of complainant's vehicle with a tire iron, defendant's challenge is to the credibility of the witness. The credibility of identification testimony is a question for the trier of fact that this Court will not resolve anew. *People v Davis,* 241 Mich App 697, 700; 617 NW2d 381 (2000). This Court rarely overturns a conviction when the only issue is the credibility of a witness, and we decline to do so now. *People v Crump,* 216 Mich App 210, 215; 549 NW2d 36 (1996).

Defendant next argues that the verdict was against the great weight of the evidence. Again, we disagree. This Court reviews the trial court's denial of a motion for a new trial on the ground that the verdict was against the great weight of the evidence for an abuse of discretion. *People v Stiller,* 242 Mich App 38, 49; 617 NW2d 697 (2000). An abuse of discretion will be found only where the trial court's denial of the motion was manifestly against the clear weight of the evidence. *People v Daoust,* 228 Mich App 1, 16; 577 NW2d 179 (1998).

As with defendant's previous issue, defendant bases his great weight claim on a challenge to the credibility of the evidence. Defendant notes testimony by a police officer that a second witness to the crime told police that defendant was not the man who committed the crime. However, the second witness did not testify at trial, and in any event, conflicting testimony is an insufficient ground for granting a new trial. *People v Lemmon*, 456 Mich 625, 647; 576 NW2d 129 (1998). Defendant has not shown that the evidence preponderates heavily against the verdict or that the eyewitness testimony was patently incredible or inherently implausible. *Id.* at 642, 647. We conclude, therefore, that the trial court did not abuse its discretion in denying defendant's motion for a new trial on this basis.

Finally, defendant argues that the trial court abused its discretion in denying his motion for an evidentiary hearing because one of the jurors knew defendant's mother. Defendant raised this issue below in a motion for new trial. We note that, although both the juror and defendant's mother were introduced at trial, defendant did not raise this issue until several months after he had been convicted and sentenced and his claim of appeal had been filed. Further, defendant did not include a supporting affidavit with his motion for a new trial, MCR 2.611(D), and has not demonstrated any actual prejudice. MCL 600.1354; MSA 27A.1354. Indeed, defendant has not spoken to the juror and offers no evidence that the juror was not impartial. He merely argues that jury deliberations could have been affected by the fact that one juror allegedly worked with defendant's mother sometime in the past. There is no evidence of harm beyond defendant's speculation, see *People v Messenger*, 221 Mich App 171, 175; 561 NW2d 463 (1997), and no indication that the juror would have been removable for cause. *Daoust*, *supra* at 8-9. Under these circumstances, we find no abuse of discretion.

Affirmed.

/s/ Richard A. Bandstra
/s/ Richard Allen Griffin
/s/ Jeffrey G. Collins