

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TAMEKA N. WRIGHT,

Defendant-Appellant.

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UNPUBLISHED

May 25, 2001

No. 221308

Wayne Circuit Court

LC No. 99-000914

Before: Jansen, P.J., and Zahra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from her conviction of malicious destruction of property (MDOP) over \$100, MCL 750.377a; MSA 28.609(1), entered after a jury trial. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant was charged with MDOP and felonious assault, MCL 750.82; MSA 28.277. Complainant testified that defendant struck her head with an object and then shattered the rear window of her vehicle, causing damage to the vehicle in excess of \$600. The testimony of other witnesses, while inconsistent in some respects, established that defendant struck complainant's vehicle. Defendant acknowledged that she threw her boot at the window and broke it, but maintained that she did so because she was frightened that complainant was attempting to hit her with the vehicle. The jury acquitted defendant of felonious assault, but convicted her of MDOP.

A new trial may be granted on some or all of the issues if the verdict is against the great weight of the evidence. MCR 2.611(A)(1)(e). The test is whether the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand. *People v Lemmon*, 456 Mich 625, 627; 576 NW2d 129 (1998). *People v Gadomski*, 232 Mich App 24, 28; 592 NW2d 75 (1998). If the evidence conflicts, the issue of credibility ordinarily should be left for the trier of fact. *Lemmon, supra* at 642-643. Failure to raise the issue by moving for a new trial before the trial court waives the issue on appeal. *People v Winters*, 225 Mich App 718, 729; 571 NW2d 764 (1997). The issue may be considered if the failure to do so would result in a miscarriage of justice. *People v Noble*, 238 Mich App 647, 658; 608 NW2d 123 (1999).

The elements of MDOP over \$100 are: (1) that the property belonged to someone other than the defendant; (2) that the defendant damaged or destroyed the property; (3) that the

defendant did so knowing that it was wrong, and with the intent to damage or destroy the property; and (4) that the extent of the damage exceeded \$100. CJI2d 32.2.<sup>1</sup> Intent may be inferred from all the facts and circumstances. *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999).

Defendant argues that she is entitled to a new trial because the verdict was against the great weight of the evidence. We disagree and affirm defendant's conviction. Defendant did not move for a new trial in the trial court, and thus has waived appellate review of this issue. *Winters, supra*. The jury was entitled to determine the credibility of the witnesses. *Lemmon, supra*. The evidence established that defendant damaged property belonging to complainant, and that the damage was in excess of \$100. Evidence that defendant threw a boot with sufficient force to break the rear window of complainant's vehicle would allow a rational trier of fact to conclude that defendant intended to damage the property. *Nelson, supra* at 461-462. Failure to give further consideration to defendant's arguments would not result in a miscarriage of justice. *Noble, supra*. Defendant is not entitled to a new trial. *Gadomski, supra*.

Affirmed.

/s/ Kathleen Jansen  
/s/ Brian K. Zahra  
/s/ Donald S. Owens

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<sup>1</sup> The incident which resulted in the charges against defendant occurred in 1998, prior to the effective date of the amended version of MCL 750.377a; MSA 28.609(1).