STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTONIO ROQUEMORE, a/k/a ANTONIO ROGUEMORE,

Defendant-Appellant.

UNPUBLISHED
July 13, 2001

No. 221316
Wayne Circuit Court
LC Nos. 98-013098
98-014051

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

PER CURIAM.

In lower court docket number 98-013098, defendant was convicted of carjacking, MCL 750.529a; MSA 28.797a, armed robbery, MCL 750.529, and possession of a firearm during the commission of a felony, MCL 750.227b, and sentenced to concurrent terms of five to fifteen years in prison for the carjacking and robbery convictions and the mandatory two-year sentence for felony-firearm. In lower court docket number 98-014051, defendant was convicted of burning personal property, MCL 750.74, and sentenced as an habitual offender, second offense, MCL 769.10, to one to four years in prison. We affirm.

Defendant challenges both the trial court's factual findings and the sufficiency of the evidence. 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). The trial court's factual findings are reviewed for clear error. A finding of fact is considered clearly erroneous "if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "An appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

The trial court's finding that the complainant described his assailant as wearing a black jacket was not clearly erroneous. The complainant testified that his assailant wore a dark-colored leather jacket that was either dark brown or black, but he thought it was black. The trial court's finding that witness Robinson testified that defendant "had talked about burning the car up" was

not clearly erroneous. Robinson testified without objection that defendant "said he was going to burn the car." The trial court's finding that witness Lewis ascribed the same statement to defendant was clearly erroneous because she never testified that defendant said anything about burning the car. However, this error does not necessitate reversal because the court's ultimate conclusion was otherwise supported by the evidence, as discussed below. *Anchor Inn of Michigan, Inc v Knopman,* 71 Mich App 64, 69; 246 NW2d 416 (1976); *People v Anderson,* 64 Mich App 218, 221-222; 235 NW2d 746 (1975).

Regarding the sufficiency of the evidence, defendant does not dispute that the prosecutor proved that each of the alleged crimes had been committed; he disputes only the finding that he was the person who committed them. "The prosecutor is not required to present direct evidence linking defendant to the crime." *People v Saunders,* 189 Mich App 494, 495; 473 NW2d 755 (1991). The defendant's identity may be proved by circumstantial evidence alone. *People v Garcia,* 33 Mich App 598, 600; 190 NW2d 347 (1971).

The complainant said his assailant was wearing a black or dark brown leather jacket and defendant was wearing a black leather jacket; the assailant took the complainant's black BMW and his wallet from the complainant at a gas station; shortly after the robbery, defendant boasted of an easy jacking at that gas station; a black "Beemer" appeared near a house where defendant sometimes stayed and defendant was in possession of the complainant's wallet; Lewis threw away a strange set of keys she found in defendant's jacket pocket and defendant, when told to move the car, asked for the keys because he did not have them; defendant expressed an intent to burn the car and he and two friends were seen pushing it toward the railroad tracks; and the complainant's burned car was found in that area. Such evidence was clearly sufficient to prove that defendant had committed the crimes.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy