

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT E. JONES,

Defendant-Appellant.

UNPUBLISHED

July 27, 2001

No. 224962

Wayne Circuit Court

LC No. 99-007064

Before: Wilder, P.J., and Hood and Griffin, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of breaking and entering a building with intent to commit a felony, MCL 750.110. The trial court sentenced him as a fourth felony offender, MCL 769.12, to ten months' to ten years' imprisonment. Defendant appeals as of right, and we affirm.

Defendant's sole claim on appeal is that there was insufficient evidence to sustain his conviction. When reviewing a challenge to the sufficiency of the evidence in a bench trial, this Court views the evidence in a light most favorable to the prosecution to determine if a rational trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 269-270; 380 NW2d 11 (1985); *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000). The elements of the offense of breaking and entering a building are (1) a breaking and entering, (2) of an occupied building, (3) with felonious intent. *People v Fox (After Remand)*, 232 Mich App 541, 556; 591 NW2d 384 (1998).

In this case, a police officer on patrol saw defendant scaling a fence behind a roofing company warehouse. He and his partner both testified that they saw defendant pick up a cardboard box and then run when he saw the officers. The box fell apart and several tools that were engraved with the social security number of the roofing company's mechanic fell out. Defendant was later found hiding nearby wearing clothing that matched the clothing of the man carrying the box. The officers found a ladder near a broken warehouse window and a thick rope hanging down to the floor inside. Near the rope were shoe prints that matched the size and tread of defendant's shoes. Viewed in a light most favorable to the prosecution, this evidence was sufficient to prove the elements of the offense beyond a reasonable doubt.

We reject defendant's contention that the evidence was insufficient because the officers who identified him were not credible witnesses. Credibility issues are for the trier of fact and this Court gives due regard to the special opportunity and ability of the trial judge to determine the credibility of witnesses. *In re Hardin*, 184 Mich App 107, 109; 457 NW2d 347 (1990). Although defendant claims that the evidence was insufficient because the prosecution failed to corroborate the officers' testimony by offering the recovered tools, his shoes, and photographs of the shoe prints as exhibits, he cites no authority for the proposition that such physical evidence must or should be produced at trial. He has therefore abandoned the argument on appeal. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). Finally, defendant's contention that the trial court placed undue emphasis on defendant's flight is without record support.

Affirmed.

/s/ Kurtis T. Wilder

/s/ Harold Hood

/s/ Richard Allen Griffin