

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

JAMES GRIGSBY,

Defendant-Appellant.

UNPUBLISHED
November 6, 2001

No. 229652
Wayne Circuit Court
LC No. 99-010642

Before: Zahra, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of larceny from a person, MCL 750.357. The trial court sentenced defendant as a third habitual offender, MCL 769.11, to a term of five months to ten years in prison. We affirm.

Defendant first argues that the evidence was insufficient to support his conviction because he took the victim's property under a "claim of right." We disagree. As this Court stated in *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999):

When ascertaining whether sufficient evidence was presented at trial to support a conviction, this Court must view the evidence 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. Circumstantial evidence and reasonable inferences arising therefrom may be sufficient to prove the elements of a crime. [Citations omitted.]

The elements of larceny are: (1) an actual or constructive taking of goods or property, (2) a carrying away or asportation, (3) the carrying away must be with felonious intent, (4) the subject matter must be the goods or personal property of another, (5) and the taking must be without the consent of and against the will of the owner. *People v Ainsworth*, 197 Mich App 321, 324; 495 NW2d 177 (1992). We conclude that a rational trier of fact could have found that the prosecutor proved these elements beyond a reasonable doubt.

According to the trial testimony, the victim and defendant were in the process of dissolving their relationship, and the victim wanted to retrieve some personal belongings from defendant's home. The victim testified that defendant paged her and told her that she could retrieve the rest of her belongings. As the victim drove toward defendant's home, she heard defendant call her name from the street. The victim pulled over and defendant entered the

vehicle. A verbal altercation transpired, during which defendant reached over the victim's body and "grabbed" her pager from the door area of the car. Defendant then placed the car in park and took the car keys, asking the victim, "What else you got?" Defendant exited the victim's car, opened the trunk, and removed the victim's purse. Defendant took the purse, \$40 in cash, and "snatched" a diamond chain that the victim was wearing around her neck. Defendant then told the victim, "you can try something stupid if you want to you. I know [I] got my thing." The victim indicated that defendant was referring to his gun and testified that she had seen something that looked like a gun in defendant's waist area when he was seated in the car with her.

We conclude that the evidence supported a finding that defendant committed a larceny. Despite defendant's asserted "claim of right," there was no factual basis to support a conclusion that defendant held any type of ownership interest in the victim's property. The trial court found that the property belonged to the victim, and it was taken from her person by threat of force. We reject defendant's argument that he possessed a "claim of right" to take the victim's property as a form of collateral until she returned other items that he believed to be his. Viewed in the light most favorable to the prosecution, we conclude that a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.

Defendant next argues that the trial court violated MCR 2.517 because it failed to properly address defendant's "claim of right" defense and failed to articulate the facts necessary to support a larceny conviction. We disagree.

In criminal cases, a judge who sits without a jury is obliged to articulate the reasons for his decision in findings of fact. *People v Jackson*, 390 Mich 621, 627; 212 NW2d 918 (1973). Yet, a trial judge's failure to find the facts does not require reversal where it is manifest that the judge was aware of the factual issue and that he resolved that issue. *Id.* at 627, n 3. In the present case, it is clear that the trial judge rejected defendant's "claim of right" defense and determined that defendant took property belonging to the victim by threat of force. We conclude that the trial court's findings satisfied the requirements of MCR 2.517.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael R. Smolenski
/s/ Michael J. Talbot