

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LARRY J. COCHRAN,

Defendant-Appellant.

UNPUBLISHED
December 4, 2001

No. 229322
Wayne Circuit Court
LC No. 00-002247

Before: White, P.J., and Talbot and E.R. Post*, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of first-degree home invasion, MCL 750.110a(2), entered after a bench trial. We affirm.

Complainant testified that she was awakened by a noise, and upon investigation saw defendant, her former boyfriend, descending the stairs in her home. Defendant left the home through the front door. Complainant noted that plexiglass and plastic that covered the window of a first-floor bathroom were dislodged. She indicated that the material had been in its proper place when she went to bed the previous evening. Complainant stated that just after defendant left, she noticed that various items, including her planner, keys, pager, medical cards, driver's license, and money, were missing from her bedroom. She indicated that approximately two weeks later, her planner, medical cards, and driver's license were returned in the mail. Complainant testified that defendant did not have a key to her home, and that she had not given him permission to enter the home. Defendant testified that he had a key to complainant's home, but denied entering the residence. He noted that the plexiglass and plastic covering the bathroom window could be dislodged if a strong wind hit the window.

The trial court found defendant guilty of first-degree home invasion. The court considered the case a credibility contest, and found that complainant's testimony was more credible than that given by defendant.

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

* Circuit judge, sitting on the Court of Appeals by assignment.

reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* 462 Mich 71; 611 NW2d 783 (2000).

MCL 750.110a(2) provides:

(2) A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either one of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

Defendant argues that while the evidence, viewed in a light most favorable to the prosecution, supported a finding that he entered complainant's home through the first-floor bathroom window while complainant was present in the home and took various items from her bedroom, the evidence was insufficient to establish that he had the requisite larcenous intent to deprive complainant of her property on a permanent basis. See *People v Wilbert*, 105 Mich App 631, 639; 307 NW2d 388 (1981). We disagree and affirm defendant's conviction. Complainant's testimony, which the trial court was entitled to believe, *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989), established that defendant entered her home through the bathroom window without her permission while she was present in the home, and took various items from her bedroom. Defendant's assertion that the evidence did not support a finding that he intended to deprive complainant of her property on a permanent basis is without merit. Complainant stated that only some of her property was returned in the mail. Defendant's intent to deprive complainant of at least some of her property on a permanent basis can be inferred from the evidence that various items were not returned. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction of first-degree home invasion. *Petrella, supra*.

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Edward R. Post