

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CALVIN LEE PRUDE,

Defendant-Appellant.

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UNPUBLISHED

April 16, 2002

No. 229094

Kalamazoo Circuit Court

LC No. 00-000215-FH

Before: K.F. Kelly, P.J. and Doctoroff and Cavanagh, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of breaking and entering with intent to commit larceny, MCL 750.110, and attempted larceny in a building, MCL 750.360; MCL 750.92, entered after a jury trial. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

**I. Basic Facts**

Defendant was charged in connection with a break-in at a church. The evidence showed that a window in the lower level of the church had been broken. One set of footprints led to the broken window. The door to the pastor's office was kicked in, and papers and desk drawers were disturbed. Nothing was found to be missing from the church. Laboratory tests indicated that defendant's boots could have made the impressions around the broken window. Defendant testified that he was in the neighborhood when he saw a door to the church standing open and several persons lurking around the church. He went inside the church to investigate, and was arrested as he left the building. The jury found defendant guilty as charged. Defendant appeals of right, arguing the evidence was insufficient to support his convictions.

**II. Standard of Review**

When reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998), mod 462 Mich 415; 615 NW2d 691 (2000). A 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 Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of breaking and entering with intent to commit larceny are: (1) the defendant broke into a building; (2) the defendant entered the building; and (3) at the time of the breaking and entering, the defendant intended to commit a larceny. MCL 750.110; *People v Toole*, 227 Mich App 656, 658; 576 NW2d 441 (1998). The elements of larceny in a building are: (1) that the defendant took someone else's property; (2) that the defendant took the property without consent; (3) that the property was taken within the confines of a building; (4) that there was some movement of the property; (5) that the property was worth something at the time it was taken; and (6) that at the time the property was taken, the defendant intended to deprive the owner of it permanently. MCL 750.360; see also *People v Sykes*, 229 Mich App 254, 278; 582 NW2d 197 (1998).

Larceny in a building is a specific intent crime. Intent can be inferred from the facts and circumstances surrounding the offense. See *People v McFarland*, 165 Mich App 779, 783; 419 NW2d 68 (1988). An attempt consists of the intent to do an act or to bring about consequences which would amount to a crime, and an act in furtherance of that intent which goes beyond mere preparation. *People v Jones*, 443 Mich 88, 100; 504 NW2d 158 (1993).

### III. Analysis

In the case at bar, the prosecution presented evidence, apart from the fact of the break-in, from which the jury could infer that defendant had the requisite intent to commit a larceny both when he broke into and entered the church, and when he was inside the church.<sup>1</sup> The evidence that defendant broke into the church on the lower level and then traveled up a flight of stairs and to the opposite side of the building to the pastor's office supported an inference that defendant was looking for an item or items of value, and that he did not enter the church simply to seek shelter. This evidence supported an inference that defendant had the requisite intent to commit a larceny when he broke into the building. *McFarland, supra*; *Toole, supra*.

The evidence that the door to the pastor's office was kicked open and that papers and drawers in the office were disturbed supported an inference that defendant was looking for something of value with the intent of removing it, and committed an act, i.e., moving items, in furtherance of that intent. The evidence supported a finding that defendant had the requisite intent to commit a larceny when he was inside the building, and that he did an act to further that intent. *Jones, supra*. The jury was entitled to reject defendant's testimony as not credible. *Wolfe, supra*. The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's convictions. *Id.*

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<sup>1</sup> Defendant concedes that the evidence was sufficient to support a finding that he broke into the church, and contends that at most, the evidence would sustain a conviction of the misdemeanor offense of breaking and entering. MCL 750.115.

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Martin M. Doctoroff  
/s/ Mark J. Cavanagh