

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFERY DARYL MACKEY,

Defendant-Appellant.

UNPUBLISHED

July 2, 2002

No. 229915

Eaton Circuit Court

LC No. 99-020306-FH

Before: Fitzgerald, P.J., and Holbrook, Jr., and Doctoroff, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of second-degree home invasion, MCL 750.110a(3), entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant testified that several days after she and defendant ended their personal relationship she returned home to find that her cat, Wiley, had disappeared from her home. A neighbor informed her that defendant had been at her home that morning. Complainant testified that defendant did not have permission to enter her home in her absence. Complainant stated that initially defendant denied any connection to Wiley's disappearance, but that subsequently he admitted he took Wiley in order to exact revenge for her decision to end their relationship. Defendant told her that he threw Wiley out of the car. Complainant's neighbor testified that she saw defendant approach complainant's home on the day of the break-in just after complainant left for work. Defendant left the home approximately five minutes later. Several of complainant's co-workers testified that they spoke with defendant after Wiley disappeared and that he acknowledged he took the cat in order to cause complainant pain. The investigating officer testified that he found no evidence of forced entry into complainant's home. The jury found defendant guilty as charged.

In 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), rev'd on other grounds 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).

A person who breaks and enters a dwelling with the intent to commit a felony or a larceny therein, or a person who enters a dwelling without permission with the intent to commit a felony or a larceny therein is guilty of second-degree home invasion. MCL 750.110a(3). Second-degree home invasion requires proof that the defendant intended to commit a felony or a larceny after gaining entry into the home. The offense is a specific intent crime. See *People v Herndon*, 246 Mich App 371, 385; 633 NW2d 376 (2001). The elements of larceny are: (1) that the defendant took property belonging to another; (2) that the property was taken without the owner's consent; (3) that there was some movement of the property; and (4) that at the time the property was taken the defendant intended to deprive the owner of it permanently. See *People v Cain*, 238 Mich App 95, 120; 605 NW2d 28 (1999).

Defendant argues that the evidence was insufficient to support his conviction. We disagree and affirm. Complainant's testimony that Wiley was inside the home when she left that morning and that defendant admitted to taking Wiley, coupled with the testimony of the neighbor placing defendant at complainant's residence on the day of the break-in, supported an inference that defendant entered complainant's home. *Vaughn, supra*. Complainant's testimony that defendant was no longer allowed in her home in her absence supported an inference that defendant entered complainant's home without her permission. *Id.* The testimony of complainant's co-workers regarding defendant's statements to them, the admissibility of which defendant did not contest, supported a finding that defendant took the cat with the intention of depriving plaintiff of it on a permanent basis. *Cain, supra; Vaughn, supra*. The jury was entitled to find the testimony given by complainant and the other witnesses credible. *Warren, supra*. Viewed in a light most favorable to the prosecution, the evidence supported defendant's conviction. *Wolfe, supra*.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Donald E. Holbrook, Jr.
/s/ Martin M. Doctoroff