

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS BENNETT,

Defendant-Appellant.

UNPUBLISHED

August 6, 2002

No. 232005

Wayne Circuit Court

LC No. 98-013105

Before: Murray, P.J., and Sawyer and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right from a conviction of malicious destruction of a building over \$100, MCL 750.380, for which he was sentenced to two years' probation with the first eight months in jail or an alcohol treatment program. We affirm.

In reviewing a nonjury criminal case, this Court "is required to review the entire record to determine whether the trial judge clearly erred." *People v Rush*, 48 Mich App 478, 482; 210 NW2d 467 (1973). This Court must review the record to determine whether there was sufficient evidence to warrant a verdict of guilty beyond a reasonable doubt. *People v Garcia*, 398 Mich 250, 263; 247 NW2d 547 (1976). The trial court's factual findings are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "An appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

The elements of the crime charged are (1) that the building belonged to another person, (2) that the defendant destroyed or damaged the building, (3) that the defendant knew what he did was wrong and acted with the intent to damage or destroy the property, and (4) the extent of the damage exceeded \$100. MCL 750.380; CJI2d 32.3. The amount of the damage caused may be proved by the difference in the fair market value of the property or the reasonable cost to repair or restore the property. *People v LaBelle*, 231 Mich App 37; 585 NW2d 756 (1998). The defendant's intent may be inferred from circumstantial evidence such as his words, his conduct, or the manner in which the crime was committed. *People v Hawkins*, 245 Mich App 439, 458; 628 NW2d 105 (2001).

The evidence showed that the house belonged to another person and that it was damaged. That defendant inflicted the damage could be inferred from the facts that defendant was alone in the house with his girlfriend; the house was intact when defendant's relatives left and in a shambles a few hours later; and a neighbor said that defendant and his girlfriend were throwing things and she heard both of them "ramming and bamming" in the house. That defendant intended to damage the property could be inferred from the type of damage inflicted, which far exceeded normal wear and tear. The homeowner testified that the repairs cost \$6,000 and such testimony was sufficient to prove value. *People v Harris*, 77 Mich 568, 569; 43 NW 1060 (1889); *People v Dyer*, 157 Mich App 606, 611; 403 NW2d 84 (1986).

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Brian K. Zahra