

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARY RICHARD LEAF,

Defendant-Appellant.

UNPUBLISHED

August 16, 2002

No. 232891

Montmorency Circuit Court

LC No. 00-001247-FH

Before: White, P.J., and Neff and Jansen, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of larceny in a building, MCL 750.360, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged in connection with the theft of auto parts from Don Ehlers, his former employer. Bernard Neilson, Jr., a mechanic, testified he formerly worked for Ehlers, and when he worked on defendant's van he found new auto parts in the van. He recognized the parts as having come from Ehlers' place of business. Ehlers testified that he operated an auto sales and repair business, and that defendant formerly worked for him as a detail person and assistant in the repair shop. He stated that defendant's employment did not authorize or require him to move auto parts. Ehlers testified that Neilson contacted him, and when he went to Neilson's shop he recognized the parts in defendant's van as parts belonging to him. He estimated that the parts were worth \$150 to \$200.

Deputy Funk testified that defendant told him he placed the parts in his van for the purpose of moving them to another building in Ehlers' complex. Defendant testified he delivered newspapers on weekends at the same time he worked for Ehlers, and that his van was cluttered with papers. He stated he placed the parts in his van in order to move them to another building in Ehlers' complex, but then forgot about the parts. The jury found defendant guilty.

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), modified 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 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; CJI2d 23.4; see also *People v Sykes*, 229 Mich App 254, 278; 582 NW2d 197 (1998). This offense is a specific intent crime. Intent can be inferred from the facts and circumstances surrounding the offense. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983).

Defendant argues the evidence was insufficient to support his conviction because it did not establish he intended to deprive the owner of the property permanently. We disagree and affirm defendant's conviction. The evidence established that auto parts that belonged to Ehlers were found in defendant's van at a time when the van was not at Ehlers' place of business. Ehlers' testimony established that the parts had some value. Ehlers testified the parts were normally stored in his repair shop, and defendant, a former employee who had access to the repair shop, had no authority or reason to move the parts in the course of his employment. The intent to permanently deprive another person of his property can be proved by circumstantial evidence. *People v Cain*, 238 Mich App 95, 120-121; 605 NW2d 28 (1999). Some of the parts were located under paper and other clutter in defendant's van.

The evidence supported a finding that at the time he moved the parts, defendant intended to deprive Ehlers of them on a permanent basis. See *People v Jones*, 98 Mich App 421, 425-426; 296 NW2d 268 (1980); *Beaudin, supra*; *Vaughn, supra*. The jury was entitled to reject defendant's testimony that he put the parts in his van in order to move them to another building on Ehlers' complex and then forgot about them as not credible. *Warren, supra*. The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction of larceny in a building. MCL 750.360; *Wolfe, supra*.

Affirmed.

/s/ Helene N. White
/s/ Janet T. Neff
/s/ Kathleen Jansen