

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID DEMETRIUS CARTER,

Defendant-Appellant.

UNPUBLISHED

July 22, 2004

No. 245003

Wayne Circuit Court

LC No. 01-009793

Before: Jansen, P.J., and Meter and Cooper, JJ.

PER CURIAM.

Defendant David Demetrius Carter appeals as of right his bench trial conviction for receiving or concealing stolen property valued at \$1,000 or more but less than \$20,000.¹ Defendant was sentenced to six months' probation for this conviction. We affirm.

I. Factual Background

On January 1, 2001, Wendell Anthony McKenzie, Sr. (Mr. McKenzie) purchased a 2001 Yamaha moped for his son Eric DeShawn McKenzie. Mr. McKenzie testified that the moped was valued at \$1,900. The moped was stolen several months later from the McKenzie's backyard. Mr. McKenzie filed a police report on July 27, 2001. Eric's sister, Nikitta McKenzie, saw defendant riding the moped on two separate occasions. On August 17, 2001, Nikitta confronted defendant and informed him that the moped belonged to her brother. Defendant claimed to have purchased the moped for five hundred dollars. Nikitta noticed that the front of the moped was bunched up and several wires were exposed. The police arrived and Detroit police officer Charles Staples noted that part of the ignition was missing from the moped, specifically the keypad. He also noted that the wires leading up to the ignition were exposed and mangled together. Officer Staples then verified the VIN number and determined that the moped was stolen before arresting defendant.

At trial defendant asserted that he had in fact purchased the moped from an acquaintance for six hundred dollars and did not know that the moped was stolen. In order to bolster his argument, defendant produced a key which he claimed he received upon purchasing the moped.

¹ MCL 750.535(3)(a).

However the moped was a Yamaha and the key was for a Toyota product. Due to the missing keypad, the court could not verify whether the key would start the ignition. However, Mr. McKenzie produced a Yamaha key that successfully unlocked the seat compartment.

II. Sufficiency of the Evidence

Defendant's only issue on appeal is that the prosecution presented insufficient evidence to support his conviction by failing to establish his knowledge that the moped was stolen. We disagree. In sufficiency of the evidence claims, this Court reviews the evidence in the light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt.² "[C]ircumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime."³

To establish the offense of receiving and concealing stolen property worth at least \$1,000 but less than \$20,000, the prosecutor must prove:

(1) that the property was stolen; (2) the value of the property; (3) the receiving, possession or concealment of such property by the defendant with the knowledge of defendant that the property had been stolen; (4) the identity of the property as being that previously stolen; and (5) the guilty constructive or actual knowledge of the defendant that the property received or concealed had been stolen.^[4]

While the crime of receiving or concealing stolen property requires knowledge on the part of the defendant that the property was stolen, the offense is not a specific intent crime.⁵ The requisite guilty knowledge generally cannot be proven by direct evidence, but must be inferred from all the circumstances.⁶ Factors such as the defendant's possession of the property shortly after it was stolen, change in the condition of the stolen article, and a purchase price out of line with the article's value support an inference that the defendant knew that the property was stolen.⁷

² *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002).

³ *People v Lee*, 243 Mich App 163, 167-168; 622 NW2d 71 (2000).

⁴ MCL 750.535(3)(a); *People v Quinn*, 219 Mich App 571, 574; 557 NW2d 151 (1996), quoting *People v Hooks*, 139 Mich App 92, 96; 360 NW2d 191 (1984), quoting *People v Matuja*, 77 Mich App 291, 295; 258 NW2d 79 (1977).

⁵ *People v Ainsworth*, 197 Mich App 321, 324-325; 495 NW2d 177 (1992), citing *People v Flowers*, 186 Mich App 652, 653-654; 465 NW2d 43 (1990), *People v Watts*, 133 Mich App 80, 83; 348 NW2d 39 (1984).

⁶ *People v Salata*, 79 Mich App 415, 421; 262 NW2d 844 (1977), citing *People v Westerfield*, 71 Mich App 618, 621; 248 NW2d 641 (1976).

⁷ *Westerfield*, *supra* at 622.

The prosecution produced sufficient evidence of defendant's knowledge that the moped was stolen at the time of receipt to support his conviction. The moped's condition had been changed—its ignition was visibly missing and the wires leading to the ignition were pulled out and mangled together.⁸ Defendant did not possess the proper key and had to use the wires to start the moped, as the keypad was missing. There was no credible evidence that defendant started the moped with a key or that defendant's Toyota key would actually start the Yamaha moped. The condition of the moped, including the missing key and ignition, contradicted defendant's assertion that he was an innocent purchaser.

Moreover, the purchase price was out of line with the moped's value. Defendant paid only six hundred dollars for a 2001 Yamaha moped valued at \$1,900.⁹ Defendant testified that he believed the moped to be a 1999 model valued at \$1,000. In spite of the low price, defendant did not inquire about the moped's title, paperwork or model, and paid the purchase price to the seller, an acquaintance. Defendant purchased the moped from a person on the street without receiving the title or a receipt.

Accordingly, the prosecution produced sufficient evidence from which the trial court could infer that defendant knew that the moped was stolen at the time of purchase. We therefore affirm defendant's conviction and sentence to probation.

/s/ Kathleen Jansen
/s/ Patrick M. Meter
/s/ Jessica R. Cooper

⁸ See *People v Biondo*, 89 Mich App 96, 98; 279 NW2d 330 (1979) (evidence that ignition switch was tampered with was sufficient to infer knowledge that the vehicle was stolen).

⁹ See *Westerfield*, *supra* at 622 (finding a purchase price of one-third of the vehicle's actual value sufficient to establish knowledge that the vehicle was stolen).