

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHRISTOPHER JOHN URBAN,

Defendant-Appellant.

UNPUBLISHED
December 8, 2005

No. 257265
Oakland Circuit Court
LC No. 02-188067-FH

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for first-degree home invasion, MCL 750.110a(2). Defendant was sentenced, as a fourth habitual offender, MCL 769.12, to twelve to thirty years imprisonment. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

I. FACTS

On December 9, 2002, at around 1:00 p.m., the victim heard a knock on her front door and looked at her window and saw a car parked in her driveway. A few minutes later, the victim heard noises coming from the other end of the house and discovered a man in her bedroom standing over her jewelry box with a handful of her jewelry in his hand. The victim identified the man in her room as defendant when later shown a photographic lineup by the police and at trial while testifying. The victim testified that she asked defendant what he was doing and he apologized and said he would leave. Defendant dropped the jewelry and the victim escorted him to the car in her driveway. The victim testified that she memorized the license plate of the car. The license plate number came back as registered to defendant.

II. SUFFICIENCY OF EVIDENCE

Defendant's sole issue on appeal is that there was insufficient evidence to support his conviction for first-degree home invasion. We disagree.

A. Standard of Review

When reviewing a claim of insufficient evidence, this Court must view the evidence de novo, in the light most favorable to the prosecutor, and determine whether a rational trier of fact

could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005). Questions of credibility and intent should be left to the trier of fact to resolve. *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

B. Analysis

A defendant may be convicted of first-degree home invasion if he (1) enters a dwelling without permission, (2) with the intent to commit a felony, larceny, or assault in the dwelling, (3) while another person was lawfully present in the dwelling. MCL 750.110a(2); CJI2d 25.2B.

We find that there was sufficient evidence to support defendant's conviction for first-degree home invasion. The homeowner testified that defendant entered her home without her permission while she was present. She identified defendant as the intruder in a photographic lineup and while testifying. She also provided police with the license plate number from defendant's vehicle. The police responding to the scene observed muddy footprints in a path corroborating the homeowner's testimony. Therefore, there was sufficient evidence that defendant entered the dwelling, without permission, while another person was lawfully present. There was also sufficient evidence to find that defendant had the requisite intent when he entered the dwelling. Questions of intent should be left for the trier of fact to resolve. *Avant, supra* at 506. Moreover, considering the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient to infer intent. *People v Fennell*, 260 Mich App 261, 270-271; 677 NW2d 66 (2004). Defendant was found in a dwelling that he did not have permission to be in with the homeowner's jewelry in his hand. This was sufficient to support a finding that defendant had the intent to commit larceny within the dwelling at the time of his entry.

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello