

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TODD EDWARD GOODWIN,

Defendant-Appellant.

UNPUBLISHED

February 6, 2007

No. 266235

Monroe Circuit Court

LC No. 04-033947-FH

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

PER CURIAM.

Defendant was convicted by a jury of resisting and obstructing a police officer, MCL 750.81d(1), and was sentenced by the court to two years' probation and 330 days in the county jail. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole issue on appeal is that there was insufficient evidence to support his conviction of resisting and obstructing a police officer. We disagree.

In reviewing a claim of insufficient evidence, this Court reviews the record de novo. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). This Court views the evidence in a light most favorable to the prosecutor to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005).

Under MCL 750.81d(1) "[a]n individual who . . . resists, obstructs, opposes, . . . a person who the individual knows or has reason to know is performing his or her duties" is guilty of resisting and obstructing a police officer. *People v Ventura*, 262 Mich App 370, 375; 686 NW2d 748 (2004). The term "obstruct" includes a knowing failure to comply with a lawful command. MCL 750.81d(7)(a). The offense of resisting and obstructing a police officer does not require that an officer be effectuating a lawful arrest, but rather, only that the defendant knew or should have known that the officer was performing his duties. *Ventura*, *supra* at 377.

The evidence presented demonstrates that defendant resisted and opposed city of Milan Police Officer Brian Webb while he was performing police duties. Officer Webb was conducting a lawful traffic stop of defendant, who had been speeding in a school zone. Officer

Webb was uniformed and driving in a semi-marked vehicle. Thus, defendant knew or should have known that Officer Webb was a police officer.

During the course of the traffic stop, Officer Webb explicitly told defendant to remain inside defendant's Ford Taurus. However, while Officer Webb was in his car waiting for backup and conducting a record search of defendant, defendant knowingly defied this order and exited the Taurus. As defendant exited the Taurus, Officer Webb ordered defendant to get back in the Taurus. Again defendant opposed Officer Webb's order and ran to the back door of his neighbor's residence. Although defendant contends that he was unaware he was under arrest, this is irrelevant. The offense of resisting and obstructing a police officer does not require that an officer be in the process of arresting the defendant when the defendant opposes the officer's commands. Defendant violated the statute because he know or should have known that Officer Webb was performing his duties at the time defendant resisted Officer Webb's commands. *Ventura, supra* at 377.

Furthermore, the evidence establishes that when Officer Webb caught up with defendant and ordered him to get on the ground, defendant initially resisted these orders. It took approximately 35 seconds and several commands before defendant started to "halfheartedly" go down toward the ground. It took a considerably longer period of time for defendant to go all the way down to the ground.

Defendant argues that he did not initially comply with Officer Webb's orders because he was afraid that Officer Webb would force him to return to the car where defendant would have been unable to summon witnesses and to secure his brother's pit bull prior to the arrival of the canine unit. Defendant never mentioned this to Officer Webb. Regardless of his motives, defendant violated the statute because he, by definition, obstructed Officer Webb by his knowing failure to comply with Officer Webb's commands. MCL 750.81d(1), (7)(a). Viewed in the light most favorable to the prosecutor, the evidence was sufficient for a rational trier of fact to have found that the essential elements of resisting and obstructing a police officer were proven beyond a reasonable doubt.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio