

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES WESLEY FLETCHER,

Defendant-Appellant.

UNPUBLISHED

March 20, 2007

No. 266827

Wayne Circuit Court

LC No. 05-008017-01

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

PER CURIAM.

Defendant appeals as of right his bench trial convictions for armed robbery, MCL 750.529, carjacking, MCL 750.529a, and possession of a firearm during the commission of a felony, MCL 750.227b. We affirm.

Defendant argues that the prosecution presented insufficient evidence to sustain his convictions. In sufficiency claims, we review the evidence in the light most favorable to the prosecutor to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v McKinney*, 258 Mich App 157, 165; 670 NW2d 254 (2003).

Defendant first asserts that the prosecution presented insufficient evidence to support his carjacking conviction. To sustain a carjacking conviction, the prosecution must prove: (1) that the defendant took a motor vehicle from another person, (2) that the defendant did so in the presence of that person, a passenger, or any other person in lawful possession of the motor vehicle, and (3) that the defendant did so either by force or violence, by threat of force or violence, or by putting the other person in fear. *People v Davenport*, 230 Mich App 577, 579; 583 NW2d 919 (1998).

The evidence showed that defendant forcefully took Rebecca Flowers' car in her presence. Evidence was presented which showed that defendant pointed a gun at Flowers, blocked her exiting from the vehicle, started her car, and drove off with her inside. Defendant drove around the Detroit area with Flowers against her will. Although defendant argues that the evidence failed to show that he intended to permanently deprive Flowers of her car, this argument fails because no such evidence is required to support a conviction of carjacking. See *People v Terry*, 224 Mich App 447, 454-455; 569 NW2d 641 (1997). In summary, the

prosecution presented sufficient evidence to support defendant's carjacking conviction. See *Davenport, supra*.

Defendant also argues that the prosecution presented insufficient evidence to support his armed robbery and felony-firearm convictions, but he fails to clearly set forth his arguments. Defendant asserts that Flowers' statements were inconsistent but he fails to provide this Court with any record citations or any other support, including legal support, for his claims. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only cursory treatment [of an issue] with little or no citation of supporting authority." *People v Matuszak*, 263 Mich App 42, 59; 687 NW2d 342 (2004). For the reasons stated, defendant has not provided a basis for this Court to address these issues.

Defendant next argues that the trial court committed misconduct and denied him a fair trial when it commented on his failure to mention the alleged "drug deal" to the police. A mistrial is only warranted when an irregularity results in prejudice to the rights of the defendant and impairs the defendant's right to receive a fair trial. *People v Lugo*, 214 Mich App 699, 704; 542 NW2d 921 (1995).

The trial court's comments regarding defendant's failure to mention the "drug deal" to the police were proper and did not deny him a fair trial. Defendant testified that he knew Flowers from around the neighborhood because she bought marijuana from his friend. According to defendant, he and Flowers were together that night because she wanted to purchase marijuana and he knew where to get it. Defendant claimed that he rode with Flowers to an ATM to obtain money, but they were unable to complete the drug purchase because defendant was unable to locate the marijuana dealer. However, a police officer testified that, when questioned, defendant denied any involvement with Flowers and did not mention any drug deal. The trial court's reference to defendant's failure to mention the drug deal was proper because it addressed the credibility of defendant's theory of the case. This was a bench trial so the court functioned as the finder of fact. See *People v Oliver*, 170 Mich App 38, 49; 427 NW2d 898 (1988), modified 433 Mich 862 (1989). Therefore, the trial court's articulation of its conclusion that defendant's theory of the case was unsupported by the evidence was permissible and is not grounds for a mistrial or a new trial.

Finally, defendant argues that Flowers' statements should have been suppressed because they were inconsistent. Defendant failed to object below to any of Flowers' statements and he fails to indicate on appeal to which statements he is referring. This unpreserved and improperly presented claim will not be addressed. See *Matuszak, supra*; *People v Griffin*, 235 Mich App 27, 44; 597 NW2d 176 (1999).

Affirmed.

/s/ Jessica R. Cooper
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter