

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ROBERT MARTIN,

Defendant-Appellant.

UNPUBLISHED

October 4, 2007

No. 272353

Kalamazoo Circuit Court

LC No. 06-000286-FH

Before: Bandstra, P.J., and Talbot and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right from his jury conviction of receiving or concealing stolen property (motor vehicle), MCL 750.535(7). We affirm.

This case involves an automobile theft. Defendant's girlfriend, who spent some time in the vehicle with defendant and another individual, told the police that the car defendant was driving had been stolen. Michigan State Police officers recovered the car and arrested defendant. The officers found a number of items in the car matching those that defendant's girlfriend indicated she had left in it, including her high school identification. When officers initially questioned defendant, he claimed that he had no knowledge about the stolen car. However, when an officer informed defendant that the police would process the car for DNA and fingerprints and would determine who had been in the car, defendant admitted that he had been living in the vehicle for a couple of days at the apartment complex where the car was found. He also admitted that some of his personal items were in the car. Defendant maintained that he had received the car from another individual who had given him permission to stay in the vehicle.

On appeal, defendant argues that the trial court erred in instructing the jury that it could consider defendant's initial false statement to the police as evidence of his guilt of the charged offense, rather than only as evidence of his consciousness of guilt. We review claims of instructional error de novo. *People v Martin*, 271 Mich App 280, 337; 721 NW2d 815 (2006).

We affirm. "The trial court did not err in instructing the jury that it could consider defendant's false statement to the police as evidence of guilt. The statement, if believed, tends to lead suspicion and investigation in another direction." *People v Wolford*, 189 Mich App 478, 481-482; 473 NW2d 767 (1991), citing *People v Dandron*, 70 Mich App 439, 443-444; 245 NW2d 782 (1976), quoting *People v Arnold*, 43 Mich 303, 304-306; 5 NW 405 (1880). Where the statements relate specifically to the crime, and where there is evidence presented to establish

that the statements are false, such evidence “may be used as probative evidence of guilt.” *Dandron, supra* at 442-444. Defendant’s statements were directly related to the elements of the crime of receiving or concealing a stolen motor vehicle; specifically that the vehicle was stolen, that defendant knew or had reason to know this, and that defendant received the vehicle. See *People v Adams*, 202 Mich App 385, 390; 509 NW2d 530 (1993); CJI2d 26.1. The statements were proven false both by defendant’s subsequent statements and by the additional testimony presented by the prosecution. Defendant cannot show that the trial court provided an erroneous instruction.

We affirm.

/s/ Richard A. Bandstra

/s/ Michael J. Talbot

/s/ Karen M. Fort Hood