

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSHUA ASTON ROCHMAN,

Defendant-Appellant.

UNPUBLISHED

January 29, 2008

No. 276244

St. Clair Circuit Court

LC No. 06-002654-FH

Before: Bandstra, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of assaulting, resisting, or obstructing a police officer who defendant knew or had reason to know was performing his duties, MCL 750.81d(1). Because when viewed in the light most favorable to the prosecution, the evidence presented at trial was sufficient to prove beyond a reasonable doubt that defendant was guilty of assaulting, battering, resisting, obstructing, and opposing a person in performance of his or her duty, we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues on appeal that the prosecution presented insufficient evidence to support his conviction. He asserts both that his alleged acts of resistance constitute defensive actions that did not rise to the level of culpability contemplated by MCL 750.81d, and that refusal to cooperate or follow direct commands from officers is not prohibited by the statute. Reviewing a challenge to the sufficiency of evidence presented at trial requires that we review the evidence de novo “in a light most favorable to the prosecutor to determine whether any trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). Therefore, all conflicts of evidence are to be resolved in favor of the prosecution. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). And, “issue[s] of credibility [are left] for the jury to decide.” *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002).

To convict defendant under Michigan’s recently enacted resisting statute, MCL 750.81d,¹ the prosecution was required to produce sufficient evidence to prove that: defendant (1) either (a) assaulted, (b) battered, (c) resisted, (d) obstructed, or (e) opposed (2) a person—defined in MCL 750.81d(7) as an officer, (3) who defendant knows or has reason to know is in performance of his duties.

The prosecution offered evidence that defendant assaulted the officers by placing them in apprehension of an immediate battery when they forcibly entered his home. Two troopers testified that defendant failed to comply with direct orders to cooperate, physically struggled with and pulled an officer who was attempting to place defendant under arrest, and refused to follow instructions to open his door during a later stand-off. It is indisputable that defendant knew or had reason to know the persons he resisted were officers. The record reveals that officers arrived in full uniform and in marked cars, and an occupant of the home identified them as “cops.” In addition to denying struggling with the officer as alleged, defendant testified that he did not know or understand why the officers were at his home, and would have us believe he did not know the officers were performing their duties. However, the prosecution put forth testimony by an officer that all of the occupants were informed of the purpose of the visit and investigation. Furthermore, an officer testified that he told defendant he was going to be placed under arrest for obstructing. See *People v Nichols*, 262 Mich App 408, 414; 686 NW2d 502 (2004).

The jury obviously viewed the officers’ testimony, which conflicted with defendant’s testimony, as more credible. We “will not resolve credibility issues anew on appeal.” *Milstead*, *supra* at 404. “Juries . . . are in a much better position to decide the weight and credibility to be given to . . . testimony [offered.]” *People v Hardiman*, 466 Mich 417, 431; 646 NW2d 158 (2002). Deferring to the jury’s superior position to judge the credibility of testimony, we conclude that the prosecution presented sufficient evidence to support defendant’s conviction of assaulting, battering, resisting, obstructing, or opposing officers in performance of their duties.

Affirmed.

/s/ Richard A. Bandstra
/s/ Pat M. Donofrio
/s/ Deborah A. Servitto

¹ Defendant relies primarily on *People v Vasquez*, 465 Mich 83; 631 NW2d 711 (2001), in support of a statutory interpretation that would not criminalize a refusal to cooperate, and that would require violent and nonviolent interference to be physical in nature to obtain a conviction. However, that case discussed a defendant’s conviction under a similar, but different Michigan resisting statute, MCL 750.479. Thus, defendant’s reliance on *Vasquez*, *supra*, is misplaced.