STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED February 28, 2008
v	No. 274576 Kent Circuit Court
DAVID ABBAS MEDLIJ, Defendant-Appellant.	LC No. 05-009480-FH

Before: Wilder, P.J., Saad, C.J., and Smolenski, J.

PER CURIAM.

Defendant appeals as of right his jury conviction of first-degree retail fraud, MCL 750.356c, and sentence of three months in jail. On appeal, defendant contends that there was insufficient evidence to convict him of first-degree retail fraud. Because we conclude that there was sufficient evidence to support his conviction, we affirm.

When evaluating a sufficiency of the evidence claim, this Court reviews the evidence in the light most favorable to the prosecution to determine whether a rational jury could find that the prosecution proved each of the essential elements of the crime beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). Any conflicts in the evidence are resolved in the prosecution's favor. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). And matters of credibility must be resolved in favor of the jury verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

A person is guilty of first-degree retail fraud if he or she steals property from a store, while the store is open to the public, and the property was "offered for sale at a price of $1,000 or more." MCL 750.356c(1)(b). In this case, the prosecution charged defendant with aiding and abetting Tyler and Kyle Geers in committing first-degree retail fraud. See MCL 767.39. A person aids or abets a crime if he is present at the scene and gives any assistance through words or deeds "that are intended to encourage, support, or incite the commission of that crime." *People v Moore*, 470 Mich 56, 63; 679 NW2d 41 (2004). The requisite intent is that "the defendant intended to aid the charged offense, knew the principal intended to commit the charged offense, or, alternatively, that the charged offense was a natural and probable consequence of the commission of the intended offense." *People v Robinson*, 475 Mich 1, 15; 715 NW2d 44 (2006). Thus, the prosecution had to prove that (1) Tyler and Kyle committed first-degree retail fraud, (2) defendant performed acts or gave encouragement that assisted them in committing the crime, and (3) defendant intended the commission of the crime or knew that

Tyler and Kyle intended its commission at the time that he gave assistance or encouragement. *Id*.

After reviewing the record in the light most favorable to the prosecution and resolving all conflicts in favor of the prosecution, we conclude that there was sufficient evidence from which a jury could conclude beyond a reasonable doubt that defendant knew that Tyler and Kyle intended to steal the merchandise from Meijer when he assisted them. Defendant drove them to the Meijer store, dropped them off near the front door, and drove to the garden center to wait for them. Kyle insisted at trial that defendant knew of the plan because they discussed how to proceed before arriving at the store. Tyler also stated that defendant and the brothers planned to steal. After Kyle left the store, defendant drove around the parking lot to find him. Defendant later stopped the car to enable the brothers to collect the boxes of goods that had been thrown over the garden center wall. And eyewitness testimony supported that defendant assisted the brothers in loading at least one box into the trunk. This evidence was sufficient to prove beyond a reasonable doubt that defendant performed acts that assisted Tyler and Kyle in committing first-degree retail fraud.

We also disagree with defendant's contention that the prosecution failed to prove that the merchandise was offered for sale at a price of $1,000 or more.

The fact that the computer components were offered for sale at a price over $1,000 was an essential element of the charge. See *People v Fuzi*, 46 Mich App 204, 209; 208 NW2d 47 (1973) (concluding that the value of a stolen item is an essential element of the charged crime when the value is used to differentiate between the felony and misdemeanor offenses). Testimony of the retail price of the merchandise provided by a store clerk, however, is sufficient evidence to determine the value of the merchandise. *People v Johnson*, 133 Mich App 150, 154; 348 NW2d 716 (1984).

Here, the store detective testified that the store was open to the public when Tyler and Kyle took the computer components and that the goods were offered for sale in the store. She also testified that the "dollar amount" or the "resale amount" of the stolen merchandise was $1,488. A second employee testified to the value of the merchandise as well. He explained that the components were sold in the store, that the store was open to the public when he watched Kyle put the boxes over the garden center's back wall, and that he had knowledge about the specific merchandise stolen because he helped return the merchandise after the men were apprehended. The employee further testified that the prices of the stolen merchandise "totaled up" to approximately $1,500. This evidence was sufficient to establish that the value of the merchandise was offered for sale at a price of $1,000 or more.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Henry William Saad
/s/ Michael R. Smolenski