STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED August 26, 2008
v	No. 278733 Wayne Circuit Court
LEE HUGHES, Defendant-Appellant.	LC No. 07-005182-02

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction for second-degree home invasion, MCL 750.110a(3). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole issue on appeal is whether there was sufficient evidence to support his conviction. Specifically, defendant argues the prosecution did not establish the requisite intent. Defendant admits he broke into the dwelling without permission, but claims that he did not do so with the intent to commit a larceny. Rather, he was only looking for a warm place to sleep on a cold winter day.

A challenge to the sufficiency of the evidence in a bench trial is reviewed de novo and the evidence is viewed in a light most favorable to the prosecution to determine whether sufficient evidence has been presented that would warrant a reasonable trier of fact in finding that the essential elements of the crime were proven beyond a reasonable doubt. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). The standard of review is deferential and this Court is required to draw all reasonable inferences and make credibility choices in support of the verdict. See *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The elements of a crime can be proven beyond a reasonable doubt with circumstantial evidence and rational inferences arising from that evidence. *Id*. It is for the trier of fact, rather than this Court, to "determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences." *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

To support a conviction for second-degree home invasion, the prosecutor must prove that "defendant (1) entered a dwelling, either by a breaking or without permission, (2) with the intent to commit a felony or a larceny in the dwelling." *People v Nutt*, 469 Mich 565, 593; 677 NW2d 1 (2004), citing MCL 750.110a(3). Although intent to commit larceny cannot be presumed solely from proof that the defendant entered a dwelling, intent may reasonably be inferred from the nature, time, and place of the defendant's action before and during the crime. *People v Uhl*, 169 Mich App 217, 220; 425 NW2d 519 (1988). In other words, intent may be inferred from all of the facts and circumstances, and minimal circumstantial evidence is sufficient. *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998).

In this case, viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. First, as defendant admitted, defendant entered the dwelling without permission. Second, as discussed below, defendant's intent was reasonably inferred from his actions. See *Uhl*, *supra*.

The premises owner's brother, William Robinson, arrived at the house on Parker Street to find footprints near the rear of the house. The house had been severely damaged. The back door was off its hinges, windows were broken, and aluminum awnings and window frames were missing. William then saw two men walk down Parker and turn the corner onto Willard. He noticed the footprints of one of the men matched the footprints near the rear of the house. Subsequently, Carlyn Robinson, the premises owner, watched the same two men walk down Willard and turn into the alley behind the house, jump the backyard fence, and enter her duplex house through the back door. The trier of fact could reasonably infer that defendant had removed items from the rear of the house previously and was returning for a second trip.

Further, the police watched defendant's companion, Stanley Hazard, use a shovel to begin removing an aluminum awning from the rear of the house. The trier of fact could have inferred that defendant was aware of Hazard's actions because both entered the house through the back door next to where exterior fixtures were previously removed, and Hazard subsequently exited to remove the awning.

Moreover, William did not note damage to the upstairs unit of the duplex in his initial survey of the house. But after the police detained Hazard, Carlyn found the upstairs unit had been broken into and ransacked. The trier of fact was free to infer that, because defendant was present in the house while Hazard was outside being detained by police, defendant was responsible for the ransacking of the upper unit.

Finally, after detaining Hazard, the police entered the house and announced "Detroit Police." The police found defendant awake, hiding under boxes in the basement. He was not asleep, and the trier was free to infer that if defendant's intent was to sleep, he would not have been hiding under boxes.

In summary, the surrounding circumstances and defendant's actions before and during the crime indicated an intent to commit larceny. See *Uhl*, *supra* at 220. Thus, viewed in a light most favorable to the prosecution, there was sufficient evidence for a reasonable trier of fact to conclude the elements of the crime were proven beyond a reasonable doubt.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly