

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD LEE DAVIS,

Defendant-Appellant.

UNPUBLISHED

September 30, 2008

No. 279718

Wayne Circuit Court

LC No. 07-006729-01

Before: O’Connell, P.J., and Smolenski and Gleicher, JJ.

PER CURIAM.

Defendant was convicted of malicious destruction of utility property, MCL 750.383a, and sentenced to one to five years’ imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the applicable statute requires the prosecutor to show that defendant had the specific intent to disrupt electrical service. Defendant asserts that the prosecutor did not establish that defendant had such an intent and, therefore, there was insufficient evidence to convict defendant of malicious destruction of utility property. We disagree.

When reviewing a claim of insufficient evidence, we view the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the crime charged were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

MCL 750.383a provides, in pertinent part:

Any person or persons who shall willfully cut, break, obstruct, injure, destroy, tamper with or manipulate any machinery, tools, equipment, telephone line or post, telegraph line or post, electric line, post, tower or supporting structures, [or] electric wire . . . with the intention and without authority to interrupt or disrupt communications or electric, gas, water or steam heat service, or to curtail or impair the utilization thereof, . . . shall be guilty of a felony.

Based on the language of the statute, the prosecutor must show that defendant acted willfully when he cut the wires, that he acted with the intent to “interrupt or disrupt” electric service or to “curtail or impair the utilization thereof,” and that he did so without permission. MCL 750.383a.

The elements of a crime may be established by drawing reasonable inferences from circumstantial evidence. *People v Nimeth*, 236 Mich App 616, 622; 601 NW2d 393 (1999). The trier of fact must determine what particular inferences can fairly be drawn from the evidence presented. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). Furthermore, we will not interfere with the trier of fact’s determinations regarding the weight of the evidence or the credibility of the witnesses. *People v Passage*, 277 Mich App 175, 177; 743 NW2d 746 (2007).

Malicious destruction of property is a specific-intent crime. *People v Culp*, 108 Mich App 452, 458; 310 NW2d 421 (1981). We define specific intent as “the subjective desire or knowledge that the prohibited result will occur.” *People v Gould*, 225 Mich App 79, 86; 570 NW2d 140 (1997), quoting *People v Spry*, 74 Mich App 584, 596; 254 NW2d 782 (1977). The element of intent is a question of fact, which may be inferred from the surrounding circumstances. *People v Kieronski*, 214 Mich App 222, 232; 542 NW2d 339 (1995). Because it is difficult to prove a defendant’s state of mind, proof of intent may be based on minimal circumstantial evidence. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999).

Detroit police officers spotted defendant on top of an extendable ladder near a telephone pole. They observed defendant using wire cutters to cut an electrical wire from the pole. Defendant failed to produce any form of personal identification or verification of employment, although he stated that a subcontractor named “Inner City Properties” was his employer. Defendant also failed to provide the officers with the telephone number or address of his employer. When officers asked defendant where his work vehicle was, defendant stated that he had walked to the location of the pole and carried the ladder from a friend’s house around the corner. Defendant was wearing a cloth tool belt with several tools in it. There was no company inscription or logo on the ladder, the tool belt, or defendant’s tools.

An investigator for Detroit Edison searched the company’s database, but could not find any record of defendant or of a subcontractor by the name of “Inner City Properties.” The investigator testified that any employee or subcontractor would be found in the company’s tracking system, and all employees are required to carry identification on them. He also testified that the company had been experiencing problems with electrical wire theft. He explained that people cut the wires, strip them, and then sell the copper found inside for a lucrative profit.

On appeal, defendant claims that although he intended to steal the copper wire, he did not intend to disrupt any electrical service derived from the wires. Defendant suggests that even if he cut wires and intended to steal them, he cannot be convicted under the statute because he never contemplated interrupting electrical service. However, the jury was free to infer defendant’s intent based on the surrounding facts and circumstances. *Kieronski, supra* at 232. A reasonable jury may conclude that a person who is unlawfully cutting wires from an electrical pole would know that the cutting would result in at least some disturbance of electrical service.

The statute does not require that the prosecutor establish that the resulting disruption actually occurred. Therefore, defendant’s argument that the prosecutor failed to present evidence

of any interruption of service or of anyone deprived of power because of the clipped wire lacks merit. Likewise, the fact that the prosecutor did not present evidence of any “vengeance” defendant held against Detroit Edison is not controlling. Although some vengeance on defendant’s part may indicate an alternative motive for his actions, proof of vengeance is not necessary to establish the requisite intent under the statute.

The most reasonable inference based on the facts and circumstances presented is that defendant decided to cut wires from a telephone pole and steal them, and he did so with the knowledge that some disruption in electrical service would likely occur. When viewing the evidence in the light most favorable to the prosecutor, we conclude that a rational jury could find that defendant intended to “interrupt or disrupt” electric service or “curtail or impair the utilization thereof” and, therefore, the essential elements of the crime charged were proven beyond a reasonable doubt.

Affirmed.

/s/ Peter D. O’Connell
/s/ Michael R. Smolenski
/s/ Elizabeth L. Gleicher