STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 9, 2008
v	No. 280053 Macomb Circuit Court
SANDER UCAJ, Defendant-Appellant.	LC No. 2006-003798-FH

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

PER CURIAM.

Defendant appeals as of right his jury conviction of accessory after the fact to a felony, MCL 750.505. The trial court sentenced defendant to a term of 11 months in jail with a sentence credit of 388 days. Because we conclude that there were no errors warranting relief, we affirm.

On January 15, 2006, Edmon Dodaj fought with his then fiancée, Jennifer Taylor, in the parking lot of the Post Bar at about 1:30 a.m. Defendant, a friend of Dodaj's, intervened and drove Taylor to his apartment in Taylor's Honda Accord. Taylor testified that as they were pulling out of the parking lot she heard a loud noise, possibly a gunshot, and she heard defendant say: "Oh, my God, Eddie. Oh, my God." Shortly thereafter, Dodaj and some of his friends arrived at defendant's apartment. Defendant, Dodaj, and Dodaj's friends then conversed in Albanian, which Taylor did not understand. After the conversation, Dodaj, one of his friends, and Taylor left defendant's apartment in Taylor's Honda Accord and went to the friend's apartment. Taylor left the friend's apartment at about 7:30 a.m. to drop Dodaj's mother off at work.

At about 1:00 p.m., Dodaj called defendant and asked for a ride to the Gojcaj home. Defendant drove Dodaj to the Gojcaj home. Dodaj's sister, Loretta, arrived at the same time. About 20 minutes later, defendant received a call from the Clinton Township Police Department asking him to come into the police station for an interview. Defendant left, leaving Dodaj at the Gojcaj home. Loretta left at about the same time. The evidence further revealed that defendant thereafter went to Loretta's restaurant before going to the police station.

After returning home, Taylor watched the news and learned that Dodaj had shot and killed a man at the Post Bar and had fled in her other vehicle, a Mercury Mountaineer.[1] She then telephoned Loretta at about 3:00 p.m. and told Loretta that her car was on the news and that something "was up."

The police interviewed defendant at the station. Defendant gave conflicting stories as to whether he knew what kind of vehicle Dodaj drove and failed to tell the police Dodaj's location. Defendant also told the police that he left the Post Bar at 11:00 p.m. before the shooting occurred and did not hear from Dodaj again until Dodaj called him at 2:00 a.m. However, both Taylor and Dodaj testified at trial that Dodaj spoke to defendant at his apartment after leaving the Post Bar, and Taylor testified that defendant was at the Bar with her until about 1:30 a.m.

Defendant challenges the sufficiency of the evidence to convict him of accessory after the fact. When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found that the elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268; 380 NW2d 11 (1985). "'Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of the crime.'" *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999), quoting *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993). All factual conflicts are to be resolved in favor of the prosecution. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

"The crime of accessory after the fact is a common-law felony punishable under the catch-all provision of MCL 750.505." *People v Cunningham*, 201 Mich App 720, 722; 506 NW2d 624 (1993). To prove that the defendant is guilty, the prosecutor must prove: (1) that someone else committed the principal offense, (2) that the defendant helped the other person in an effort to avoid discovery, arrest, trial, or punishment, (3) that when the defendant gave help, he knew the other person had committed a felony and (4) that the defendant intended to help the other person avoid discovery, arrest, trial, or punishment. See *People v Lucas*, 402 Mich 302, 304-305; 262 NW2d 662 (1978); see also CJI2d 8.6. Defendant concedes that the prosecution has presented sufficient evidence to prove the first element.

Considering the evidence in the light most favorable to the prosecution, we conclude that the prosecution presented sufficient evidence to prove the second element of the charged offense. The vehicle in which Dodaj fled the murder scene, the Mercury Mountaineer, was found parked in front of defendant's apartment a few hours after the murder occurred. Both Dodaj and Taylor testified that Dodaj arrived at defendant's apartment shortly after leaving the Post Bar. Taylor further testified that she, Dodaj, and one of Dodaj's friends then drove in her Honda Accord to the friend's apartment to stay the night. According to Dodaj and Gjyste Gojcaj, defendant drove Dodaj to the Gojcaj home at about 1:00 p.m. the day of the murder. Later that day, the police interviewed defendant. Just hours after dropping Dodaj off at the Gojcaj residence, defendant failed to tell the police of Dodaj's location, gave conflicting stories as to whether or not he knew

[1] The police found the Mercury Mountaineer at about 5:00 or 6:00 a.m. parked in front of defendant's apartment.

what vehicle Dodaj drove and told the police that he left the bar before the shooting occurred in contradiction to Taylor's testimony. Two days after the murder, Dodaj was finally arrested at the Gojcaj home where defendant had left him on the day of the murder. In light of this evidence, a trier of fact could have found that defendant helped Dodaj avoid arrest.

We also conclude that there was sufficient evidence to prove that defendant knew Dodaj committed the murder when he helped Dodaj avoid arrest. Although Dodaj testified that he did not tell defendant that he committed the murder, the jury could have determined that defendant learned about the murder via other means or the jury could have discredited Dodaj's testimony. This Court does not weigh evidence or assess credibility; such determinations are left to the jury. *Wolfe*, *supra* at 514-515. Viewed in the light most favorable to the prosecution, the evidence shows that defendant was in the same vehicle as Taylor when she heard the gunshot. Defendant said, "Oh, my God, Eddie. Oh, my God," at about the time the gunshot was heard. In addition, Dodaj went to defendant's apartment after the murder where they conversed in Albanian. Defendant subsequently drove Dodaj to the Gojcaj home. The Mercury Mountaineer, which was used by Dodaj to flee the crime scene, was left at defendant's apartment. Moreover, before speaking with police, defendant had contact with Dodaj's sister, Loretta. They arrived at the Gojcaj home and left at approximately the same times and defendant went to Loretta's restaurant before going to the police station at 4:00 p.m. In the interim, at 3:00 p.m. Loretta received information from Taylor that something "was up." This circumstantial evidence was sufficient to support a finding that defendant knew Dodaj committed the murder either before he took Dodaj to the Gojcaj home or before he gave contradictory stories to the police during his interview.

Finally, we conclude that there was sufficient evidence to prove that defendant had the requisite intent to help Dodaj avoid arrest. Dodaj and defendant were friends. Defendant allowed Dodaj to leave the Mercury Mountaineer in front of his apartment. Defendant drove Dodaj to the Gojcaj's home where Dodaj was eventually arrested, and defendant lied multiple times to the police during his January 15 interview regarding where he was at the time of the murder and regarding the whereabouts of Dodaj. Thus, viewed in the light most favorable to the prosecution, the evidence was sufficient to prove intent.

In reaching our conclusion, we note that defendant also claims on appeal that the evidence against him is insufficient because Taylor wrote Dodaj a letter informing him that the police were looking for him. This letter was found on Dodaj's person at the time of his arrest. Defendant implies that by assisting the police in implicating defendant as an accessory after the fact and asserting her Fifth Amendment rights, Taylor could avoid being convicted as an accessory herself. However, this goes to Taylor's credibility and not to the sufficiency of the evidence against defendant.

There were no errors warranting relief.

Affirmed.

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