

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL KEVIN DIRSCHELL,

Defendant-Appellant.

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UNPUBLISHED

January 24, 2012

No. 301167

Calhoun Circuit Court

LC No. 2009-003987-FH

Before: BECKERING, P.J., and OWENS and SHAPIRO, JJ.

PER CURIAM.

After a jury trial, defendant Paul Kevin Dirschell was convicted of larceny from the person, MCL 750.357, and third-degree retail fraud, MCL 750.356d(4). The trial court sentenced defendant as an habitual offender, fourth offense, MCL 769.12, to 5 to 20 years' imprisonment for the larceny conviction and 93 days in jail for the retail-fraud conviction. We affirm.

On May 25, 2009, a woman was shopping at Horrock's Farm Market in Battle Creek, Michigan. The woman put her purse in her shopping cart and looked away. As she looked away, defendant took her purse and ran. The woman screamed. Although another customer recovered the woman's purse and returned it to her, defendant continued to run out of the store. David Drew, the store's manager, heard the woman scream, saw defendant drop three bottles of beer from his backpack while defendant ran at full speed, and chased defendant out of the store. As Drew chased defendant across a street through traffic, Drew alerted a police officer who was driving down the street and directed the officer toward defendant. Drew continued to chase defendant into a "wooded area" next to a Kmart. Before the police arrived at defendant's location, Drew saw defendant take off his coat and backpack and "stash" them. Defendant then hid under some shrubs. When the police arrived, Drew directed them to defendant; the police arrested defendant without further incident. When Drew returned to the store, he discovered that a six-pack container of beer was missing three beer bottles.

This only issue before this Court is whether the trial court erroneously scored offense variable (OV) 19, MCL 777.49, at ten points. OV 19 allows the trial court to assign a score of ten points where "[t]he offender otherwise interfered with or attempted to interfere with the administration of justice." MCL 777.49(c). Generally, offense variables must be scored giving consideration to the sentencing offense alone. *People v McGraw*, 484 Mich 120, 133-134; 771

NW2d 655 (2009). However, “because the circumstances described in OV 19 expressly include events occurring after the completion of the sentencing offense, scoring OV 19 necessarily is not limited to consideration of the sentencing offense.” *People v Smith*, 488 Mich 193, 195; 793 NW2d 666 (2010).

In *People v Barbee*, 470 Mich 283, 286-288; 681 NW2d 348 (2004), our Supreme Court interpreted the phrase “interfered with or attempted to interfere with the administration of justice”; the Court concluded that this language in OV 19 is a broad phrase that extends to interference with law enforcement officers. Fleeing a law enforcement officer, either in a car or on foot, after the commission of a crime is interference with the administration of justice. *People v Cook*, 254 Mich App 635, 637-641; 658 NW2d 184 (2003), overruled on other grounds *McGraw*, 484 Mich at 133 n 42. MCL 764.16(d) provides that a store employee may arrest a person when the employee has “reasonable cause” to believe that the person committed retail fraud in the first, second, or third degree. See MCL 764.16(d); MCL 750.356c; MCL 750.356d. In *People v Passage*, 277 Mich App 175, 180; 743 NW2d 746 (2007), we held that store employees are engaged in the administration of justice for purposes of OV 19 when they act under MCL 754.16(d) to arrest a person who they have reasonable cause to believe committed retail fraud.

In this case, Drew heard the woman scream and saw defendant drop bottles of beer from his backpack while running out of the store. Under these circumstances, Drew had reasonable cause to believe that defendant committed retail fraud. Thus, Drew had the authority under MCL 764.16(d) to arrest defendant. When Drew followed defendant, defendant continued to flee. Drew chased defendant across a street to a wooded area where defendant tried to hide himself, his backpack, and his coat. Thus, defendant interfered with the administration of justice by fleeing Drew. See *id.*; *Cook*, 254 Mich App at 637-641. The trial court did not abuse its discretion in scoring OV 19 at ten points.

Affirmed.

/s/ Jane M. Beckering  
/s/ Donald S. Owens  
/s/ Douglas B. Shapiro