

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
November 27, 2012

v

JAMAR HORRIDE,

No. 305554
Wayne Circuit Court
LC No. 11-000454-FH

Defendant-Appellant.

Before: SAWYER, P.J., and SAAD and METER, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction of two counts of resisting and obstructing a police officer, MCL 750.81d(1). The trial court sentenced defendant to 18 months' probation for each conviction. We affirm.

On appeal, defendant argues that there was insufficient evidence to support his conviction. We disagree. This court reviews "a challenge to the sufficiency of the evidence in an appeal from a bench trial by viewing the evidence presented in a light most favorable to the prosecution and determining whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt." *People v Vaughn*, 186 Mich App 376, 379; 465 NW2d 365 (1990), citing *People v Petrella*, 424 Mich 221, 268-270; 379 NW2d 11 (1985). Defendant was convicted of two counts of assaulting, resisting, and obstructing a police officer, MCL 750.81d(1), which provides:

Except as provided in subsections (2), (3), and (4), an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

We note *People v Moreno*, 491 Mich 38; 814 NW2d 624 (2012), wherein the Michigan Supreme Court found that MCL 750.81d does not abrogate the common-law right to resist illegal police conduct; ultimately concluding that, consistent with the common-law rule, "the prosecution must establish that the officers' actions were lawful." *Moreno*, 491 Mich at 52. However, *People v Ventura*, 262 Mich App 370; 686 NW2d 748 (2004), which held that MCL 750.81d did not require a showing that defendant's arrest was lawful, controlled at the time of defendant's jury

trial. See *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010). Regardless, defendant does not now challenge the legality of the arrest and instead asserts that he did not resist.

The testimony of police officers Marvin Quinal and William Blake established that on October 13, 2010, defendant and his friend were traveling down Harper Avenue in Detroit at a high rate of speed and passed the officers at about 2:15 a.m. The officers pursued defendant for a short distance, without activating their emergency lights, before he pulled into the driveway of a home on Chelsea Avenue after having driven past several stop signs without slowing down. At that point, the officers activated their emergency lights and ordered defendant, who was still in the car, to place both his hands outside the vehicle, but he only moved one hand outside the car. Officer Quinal pulled defendant out of the vehicle, and defendant then raised both hands above his head, Quinal demanded that defendant put his hands on the hood of the car, but defendant refused, keeping his hands in the air. Quinal and Blake each grabbed one of defendant's arms but they could not force him to lower them. Quinal then maced defendant, at which point he dropped to his knees and tightly crossed his arms across his chest. Quinal ordered defendant to open his arms so that he could be handcuffed, but defendant again refused to comply. Quinal eventually wedged one of defendant's arms free, and with Blake managed to handcuff defendant. Once defendant was placed in the back of another police car, he proceeded to kick the vehicle interior.

Defendant's repeated refusal to comply with the officers' orders, including resisting the officers' physical efforts to forcibly lower defendant's arms, was sufficient to show that defendant used "physical interference or force," and knowingly failed to comply "with a lawful command," and thereby "obstructed" the actions of Quinal and Blake. MCL 750.81d(7)(a). At that time, Quinal and Blake were in uniform, in a marked car, with activated emergency lights. Thus, defendant "[knew] or has reason to know" that the people he resisted and obstructed were police officers performing their duties. MCL 750.81d(1).

While the testimony of defendant and his friend challenged some of the officers' assertions, the evidence must be viewed "in a light most favorable to the prosecution," and under that standard, there was sufficient evidence to permit a rational trier of fact to find that the essential elements of the crimes were proven beyond a reasonable doubt. *Vaughn*, 186 Mich App at 379-380.

Affirmed.

/s/ David H. Sawyer
/s/ Henry William Saad
/s/ Patrick M. Meter