

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
October 11, 2012

v

TORI VERSHAUN THOMAS,

Defendant-Appellant.

No. 306422
Ingham Circuit Court
LC No. 11-000064-FH

Before: RONAYNE KRAUSE, P.J., AND BORRELLO, AND RIORDAN, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of two counts of assaulting, resisting, or obstructing a police officer, MCL 750.81d(1). Defendant was sentenced as a third habitual offender, MCL 769.11, to concurrent jail sentences of 180 days for each count. We affirm.

I. FACTUAL BACKGROUND

Three uniformed police officers and a police dog arrived at a residence where defendant was located in order to arrest him for an outstanding warrant. One police officer went to the rear of the house and observed defendant trying to escape through a second-story window. The officer ordered defendant to go back into the house and go downstairs. The other two police officers entered the house and heard noises from upstairs. They announced their presence and loudly ordered defendant to come downstairs. They repeated the announcement approximately 10 times. Defendant did not comply with any of the instructions.

The three officers and the police dog proceeded to the second-story of the residence. When they arrived at the room where defendant was hiding, the police officers again announced their presence and instructed defendant to exit the room. Defendant ignored these instructions, blocked the door with his body, and stated that he was not coming out. The door was forced open and the dog entered the room and bit defendant on the leg. The officers then entered the room and ordered the dog to release defendant. Defendant struggled with the officers and was forced to the ground. The officers had information that defendant had a history with weapons, so when defendant reached toward a nearby coat, the canine officer ordered the dog bite defendant again. Defendant was eventually subdued and taken to the hospital where he told an officer that he had resisted because he did not want to spend the holidays in jail.

At trial, defendant stated that he had no idea the police were there to arrest him, he did not know anything about a warrant, he never held the bedroom door shut, and that the officers repeatedly ordered the dog to bite him. Defendant also denied reaching for the coat. After a jury trial, defendant was convicted of two counts of assaulting, resisting, or obstructing a police officer. Defendant now appeals.

II. SUFFICIENCY OF THE EVIDENCE

A. Standard of Review

“We review de novo a challenge on appeal to the sufficiency of the evidence.” *People v Ericksen*, 288 Mich App 192, 195; 793 NW2d 120 (2010). “In determining whether the prosecutor has presented sufficient evidence to sustain a conviction, an appellate court is required to take the evidence in the light most favorable to the prosecutor” to ascertain “whether a rational trier of fact could find the defendant guilty beyond a reasonable doubt.” *People v Tennyson*, 487 Mich 730, 735; 790 NW2d 354 (2010) (internal quotations and citations omitted). “All conflicts in the evidence must be resolved in favor of the prosecution and we will not interfere with the jury’s determinations regarding the weight of the evidence and the credibility of the witnesses.” *People v Unger*, 278 Mich App 210, 222; 749 NW2d 272 (2008).

B. Analysis

Defendant contends that his testimony was more credible regarding the excessive force used and that he was charged with resisting arrest only as an attempt to undermine a potential civil suit for police brutality. Yet, when reviewing a claim based on the sufficiency of the evidence, we review the evidence in the light most favorable to the prosecution and resolve conflicts of the evidence in favor of the prosecution. *Tennyson*, 487 Mich at 735; *Unger*, 278 Mich App at 222. Thus, this Court will not engage in a credibility analysis to second-guess the jury’s verdict.

Further, sufficient evidence was presented at trial to support the verdict. “Under MCL 750.81d(1), the elements required to establish criminal liability are: (1) the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer, and (2) the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.” *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010).

According to the police officer testimony, two uniformed officers entered the house, announced that they were police officers, repeatedly instructed anyone upstairs to come down to the first floor, and informed defendant that he was under arrest. A third uniformed officer went around to the back of the house and observed defendant trying to climb out the window and escape. The evidence also established that defendant refused to come downstairs when ordered to do so, he held the bedroom door closed when the police tried to enter, he physically struggled with the police when they tried to arrest him, and he reached for a coat, causing the officers to fear he was trying to locate a weapon. Defendant also made statements at the hospital explaining his resistance, indicating that he knew the police were there to arrest him but he did not want to

go to jail for the holidays. Thus, there was sufficient evidence that defendant knew that the individuals were police officers and that he resisted arrest.

III. CONCLUSION

There was sufficient evidence from which a rational trier of fact could find defendant guilty of assaulting, resisting, or obstructing a police officer beyond a reasonable doubt. We affirm.

/s/ Amy Ronayne Krause

/s/ Stephen L. Borrello

/s/ Michael J. Riordan