

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM KEITH BRYANT,

Defendant-Appellant.

UNPUBLISHED

December 30, 1996

No. 182923

LC No. 94-007058

Before: McDonald, P.J., and Bandstra and C.L. Bosman*, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of unlawful use of an automobile (“joyriding”) under MCL 750.414; MSA 28.646. Defendant later pleaded guilty as a fourth habitual offender, MCL 769.12; MSA 28.1084, and was sentenced to serve a seven- to fifteen-year term of imprisonment.

Defendant first argues that insufficient evidence was presented to support his joyriding conviction. We disagree. In reviewing a sufficiency of the evidence claim in a criminal case, we view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). The elements of joyriding include: (1) the motor vehicle must have belonged to another; (2) defendant must have taken or used the motor vehicle; (3) the taking or using must have been done without authority; and (4) defendant must have intended to take or use the vehicle, knowing that he had no authority to do so. *People v Crosby*, 82 Mich App 1, 3; 266 NW2d 465 (1978).

The verdict in this case turned on credibility and circumstantial evidence. This Court refrains from interfering with the jury’s role in assessing the weight of the evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Additionally, circumstantial evidence and reasonable inferences that arise from the

* Circuit judge, sitting on the Court of Appeals by assignment.

evidence can constitute satisfactory proof of the elements of the crime. *People v Reddick*, 187 Mich App 547, 551; 468 NW2d 278 (1991).

Randall Weisenberger owned the truck at issue. No one had given defendant permission to use the vehicle. Although defendant challenges the evidence on the question of identity, this element was satisfied by circumstantial evidence. A witness, William Bodary, saw a large truck speed by his house at approximately 4:00 a.m. on March 22, 1994. He saw it duck behind the IGA, where the police discovered a parked truck with its engine still running. Defendant emerged from a nearby backyard. A police dog tracked defendant's path from the parked truck to a nearby residence. Further, defendant's fingerprints were lifted from outside the truck window. Defendant's argument lacks merit. We find that sufficient evidence was presented to support the jury's finding of guilt.

Next, defendant argues that his sentence violates the principle of proportionality. Our review of an habitual offender sentence is limited to considering whether the sentence violates the principle of proportionality set forth in *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). *People v Gatewood (On Remand)*, 216 Mich App 559, 560; 550 NW2d 265 (1996). At sentencing, the trial court noted defendant's prior record and the fact that this crime represented defendant's sixth offense. In light of the circumstances surrounding this offense and offender, we conclude that defendant's sentence is not disproportionate, and the trial court did not abuse its discretion in sentencing defendant. *Id.*

We affirm.

/s/ Gary R. McDonald
/s/ Richard A. Bandstra
/s/ Calvin L. Bosman