

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CHRISTOPHER PORTER,

Defendant-Appellee.

UNPUBLISHED

January 13, 1998

No. 197962

Recorder's Court

LC No. 96-501866

Before: Corrigan, C.J., and Griffin and Hoekstra, JJ.

MEMORANDUM.

Defendant was charged with larceny from a motor vehicle, MCL 750.356a; MSA 28.588(1), and breaking and entering into a motor vehicle, MCL 750.356a; MSA 28.588(1). The prosecution appeals as of right from the lower court's order granting defendant's motion to quash the information and dismiss the charges against defendant. We reverse and remand for reinstatement of the charges.

The sole issue for our review is whether the lower court erred in dismissing the charges against defendant based on its finding that defendant was improperly subjected to an on-the-scene identification without representation by counsel. This is a question of law that we review de novo on appeal. *People v Artman*, 218 Mich App 236, 239; 553 NW2d 673 (1996). This Court recently addressed this question in *People v Winters*, ___ Mich App ___; ___ NW2d ___ (Docket No. 184935 issued 10/14/97), slip op p 5, where we held that the presence of counsel is not required during such an identification. Here, within minutes after the eyewitness notified the police of the crimes she witnessed and furnished a description of the suspect, the police brought the eyewitness to where defendant was being detained, and the eyewitness identified defendant as the person whom she saw inside the motor vehicle. Because this identification was proper, the lower court erred in dismissing the charges against defendant.

Reversed and remanded for reinstatement of the charges. We do not retain jurisdiction.

/s/ Maura D. Corrigan

/s/ Richard A. Griffin

/s/ Joel P. Hoekstra

