

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SEAN PIPPINS,

Defendant-Appellant.

UNPUBLISHED

January 16, 1998

No. 197727

Oakland Circuit Court

LC No. 96-144576-FC

Before: Fitzgerald, P.J., and O'Connell and Whitbeck, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of carjacking, MCL 750.529a; MSA 28.797(a), and was sentenced to five to twenty years' imprisonment. Defendant appeals as of right. We affirm.

Defendant first argues that his due process rights were violated when the trial court failed to instruct the jury on specific intent. Specifically, defendant argues that an element of specific intent to deprive the victim permanently of possession of the vehicle must be read into the carjacking statute in order to give effect to the intent of the Legislature and to avoid making carjacking a strict liability offense. We note that this issue is not preserved for appellate review because defendant did not request an instruction on specific intent. *People v Hendricks*, 446 Mich 435, 440-441; 521 NW2d 546 (1994); *People v Messinger*, 221 Mich App 171, 177; 561 NW2d 463 (1997). Moreover, because defendant failed to object to the instruction at trial, his constitutional claim is not preserved for review by this Court. *People v Hubbard (After Remand)*, 217 Mich App 459, 483; 552 NW2d 493 (1996). Nonetheless, this Court recently held that the carjacking statute clearly prescribes punishment for one who "robs, steals, or *takes* a motor vehicle . . ." and does not require that the taking be with the intent to deprive the victim permanently of possession of the vehicle. Thus, no such evidence is required to support a conviction for carjacking. *People v Terry*, 224 Mich App 447, 455; 569 NW2d 641 (1997).

Defendant also argues that the trial court erred in denying his motion for a directed verdict because no physical evidence linked him to the crime and the victim's identification testimony lacked

credibility. When ruling on a motion for directed verdict, the court must consider the evidence presented by the prosecutor up to the time the motion was made in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime charged were proven beyond a reasonable doubt. *People v Gould*, 225 Mich App 79, 86; 570 NW2d 140 (1997). When reviewing a trial court's ruling on a motion for directed verdict, this Court tests the validity of the motion by the same standard as the trial court. *People v Daniels*, 192 Mich App 658, 665; 482 NW2d 176 (1991).

The victim identified defendant in a police lineup and again in court during trial. The victim also testified that the parking lot was well lit and that she looked directly at the gunman and had no problem seeing the gunman's face. The victim's identification testimony was sufficient to survive a motion for directed verdict. *People v Hall*, 396 Mich 650, 654; 242 NW2d 377 (1976); *People v Finley*, 161 Mich App 1, 12; 410 NW2d 282 (1987).¹

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Peter D. O'Connell

/s/ William C. Whitbeck

¹ The credibility of the victim's identification testimony is solely a question to be resolved by the trier of fact. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).