

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CITY OF DEARBORN,

Plaintiff-Appellant,

v

YOLANDA NICHOLS a/k/a YOLANDA YVETTE  
NICHOLS,

Defendant-Appellee.

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UNPUBLISHED

May 19, 1998

No. 202762

Wayne Circuit Court

LC No. 96-626364-AR

Before: Neff, P.J., and O'Connell and Young, Jr., JJ.

PER CURIAM.

Defendant was convicted following a bench trial in district court of larceny under one-hundred dollars in violation of Dearborn Ordinances, § 14-92. Plaintiff appeals by leave granted from the circuit court order reversing defendant's conviction. We reverse the circuit court's order, reinstate defendant's conviction, and remand for further proceedings.

Plaintiff argues that the circuit court erred in reversing defendant's conviction on the ground that there was insufficient evidence to sustain defendant's larceny conviction. We agree. In reviewing a sufficiency of the evidence question, this Court reviews the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992).

Dearborn Ordinances, § 14-92, provides:

Any person who shall commit the offense of larceny, by stealing, of the property of another, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the property stolen shall be of value of \$100.00 or less shall be guilty of a misdemeanor.

Because the ordinance is, in relevant part, identical to MCL 750.356; MSA 28.588, we look to the statute for the essential elements of the crime of larceny. In order to prove larceny under MCL 750.356; MSA 28.588, and, therefore, under the ordinance, the prosecutor must show the following:

(1) an actual or constructive taking of goods or property, (2) an asportation of the same, (3) with an intent to permanently deprive the owner, (4) of property that does not belong to the defendant, (5) against the will and without the consent of the owner. [*People v Edwards*, 171 Mich App 613, 617; 431 NW2d 83 (1988).]

Circumstantial evidence and all reasonable inferences which arise from the evidence can constitute satisfactory proof of the elements of the crime. *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996).

We conclude that the evidence presented in this case was sufficient to permit a rational trier of fact to find defendant guilty of larceny. The victim, Alpha Griem, lived at the Henry Ford Village retirement community in Dearborn. Mrs. Griem testified that on January 23, 1995, she placed two diamond rings beneath her dresser in her bedroom and that they were gone the next evening. Phillip Doyle, the head of Campus Safety and Emergency Services at Henry Ford, testified that he and another officer searched Mrs. Griem's entire apartment but did not find the rings. Mrs. Griem testified that she never left her apartment between the time she placed the rings under the dresser on January 23 and the time she discovered they were missing on January 24, and that only her son, Thomas Griem, and defendant had entered her apartment during that time. Mrs. Griem and her son both testified that he did not go into the bedroom while he was there. Defendant corroborated Mrs. Griem's testimony that defendant was alone in the bedroom on January 24 while Mrs. Griem was eating her breakfast in another room. While defendant takes issue with the reliability of Mrs. Griem's testimony, questions involving the credibility of witness testimony are for the trier of fact to resolve. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

Contrary to defendant's claim, there is no indication that the district court made any impermissible or unreasonable inferences. Moreover, while defendant was not the only person with access to the key that was kept by the health department,<sup>1</sup> and Mrs. Griem's own key could have been duplicated, the prosecution was not required to negate every reasonable theory of innocence, but only prove its own theory beyond a reasonable doubt in the face of whatever contradictory evidence defendant provided. *People v Conrad*, 189 Mich App 268, 269; 471 NW2d 655 (1991). The evidence presented was sufficient to prove the essential elements of larceny beyond a reasonable doubt. Thus, the circuit court erred in reversing defendant's larceny conviction. Defendant's conviction is reinstated.

In her appeal to the circuit court, defendant also claimed that she was denied the effective assistance of counsel at trial. However, the circuit court's order does not address this issue, presumably because the court reversed defendant's conviction based on insufficient evidence.<sup>2</sup> Accordingly, we remand the matter to the circuit court for consideration of defendant's remaining ineffective assistance of counsel claim.

The order of the circuit court is reversed, and defendant's larceny conviction is reinstated. The case is remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Janet T. Neff

/s/ Peter D. O'Connell

/s/ Robert P. Young, Jr.

<sup>1</sup> Doyle testified that his records indicated that defendant was the only person who signed for the Health Department on January 24. However, he acknowledged that it could have been checked out without his knowledge.

<sup>2</sup> Although the circuit court purported to rule on this issue from the bench, a court speaks through its orders, and this Court's jurisdiction is confined to judgments and orders. *Law Offices of Lawrence J. Stockler, P.C. v Rose*, 174 Mich App 14, 54; 436 NW2d 70 (1989); see also MCR 7.203.