

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GEORGE PATRICK MERLINO, JR,

Defendant-Appellant.

UNPUBLISHED

June 12, 1998

No. 198853

Recorder's Court

LC No. 94-003811

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant appeals by leave granted after remand from the Supreme Court his convictions of two counts of receiving and concealing stolen property, MCL 750.535; MSA 28.803, unlawful driving away of an automobile, MCL 750.413; MSA 28.645, and habitual offender, third offense, MCL 769.11; MSA 28.1083. We affirm.

Police attempted to stop a vehicle driving with a broken tail light and expired plates at 3:30 a.m. on February 23, 1994. The driver lost control of the truck, ran into a mailbox, and fled on foot. Officers lost sight of him, but followed his tracks in the fresh snow. They found defendant hiding in a garage, without any shoes or a coat. Defendant attempted to run away, but he was tackled and arrested.

Defendant was found guilty as charged after a bench trial. In its findings of fact, the trial court doubted that the officer got a good look at the driver while in the car. The court found that it was more than likely that defendant was the only person that was out in the vicinity of where he was apprehended. The officers lost sight of the person, then picked up the trail from that point, and followed it to the garage where they found defendant.

On appeal, defendant argues that the court failed to apply the reasonable doubt standard when it stated that it was more than likely that defendant was the only person out in the area. Defendant also asserts that the court made improper findings of fact, and that the conviction was based on insufficient evidence. We disagree.

It is a fundamental principle that an accused's guilt must be proven beyond a reasonable doubt to sustain a conviction. *People v Hubbard*, 387 Mich 294, 299; 196 NW2d 831 (1972). There is no indication that the trial court failed to apply the appropriate standard. The court only observed that it was more likely than not that defendant was the only person in the vicinity. The actual finding of guilt was further supported by the finding that the officers followed defendant's tracks in the fresh snow from the place where they lost sight of the driver to the garage where they found defendant. Defendant was without shoes or a coat, and attempted to flee when he was apprehended.

These findings of fact met the requirements of MCR 2.517 where they established that the court was aware of the factual issues and correctly applied the law. *People v Vaughn*, 186 Mich App 376, 384; 465 NW2d 365 (1990). Viewed in a light most favorable to the prosecution, there was sufficient evidence to justify a rational finder of fact in finding that defendant was guilty beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992).

Affirmed.

/s/ Myron H. Wahls
/s/ Kathleen Jansen
/s/ Hilda R. Gage