STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DENNIS R. PAIGE, JR.,

Defendant-Appellant.

UNPUBLISHED
June 23, 1998

No. 201651
Oakland Circuit Court
LC No. 95-141871 FH

Before: Wahls, P.J., and Holbrook, Jr., and Fitzgerald, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of receiving and concealing stolen property over $100 (hereinafter "receiving stolen property"), MCL 750.535; MSA 28.803, concealing or misrepresenting the identity of a motor vehicle with intent to mislead, MCL 750.415(2); MSA 28.647(2), and driving with license suspended, second offense, MCL 257.904; MSA 9.2604. Defendant also pleaded guilty to being an habitual offender, second offense, MCL 769.10; MSA 28.1082. Defendant was sentenced to concurrent sentences of two and one-half to seven and one-half years' imprisonment on the receiving stolen property conviction, and two and one-half to six years' imprisonment on the concealing or misrepresenting the identity of a motor vehicle with intent conviction. Defendant was also sentenced to eleven days in jail on the driving with license suspended conviction. Defendant appeals as of right from his felony convictions, and we affirm.

Defendant first argues that there was insufficient evidence presented at trial to support either his conviction for receiving stolen property, or his conviction for concealing or misrepresenting the identity of a vehicle with intent to mislead. We disagree. "In determining whether sufficient evidence has been presented to sustain a conviction, an appellate court is required to view the evidence in a light most favorable to the prosecution [to] . . . 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). "Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime." *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993). This Court will not set aside findings of fact made at a bench trial unless they are clearly erroneous. MCR 2.613(C).

"The elements of receiving and concealing stolen property with a value exceeding $100 are that (1) the property was stolen, (2) the property had a fair market value of over $100, (3) the defendant bought, received, possessed, or concealed the property with knowledge that the property was stolen, and (4) the property was identified as being previously stolen." *People v Gow*, 203 Mich App 94, 96; 512 NW2d 34 (1993). The elements of concealing or misrepresenting the identity of a motor vehicle with intent to mislead are: (1) the motor vehicle serial number or the engine number was either concealed or misrepresented; (2) that the concealment or misrepresentation was either effectuated by actually altering or replacing the VIN itself, or by altering or replacing the part of the motor vehicle bearing the VIN; and (3) that the alteration or replacement was done with the specific intent to conceal or misrepresent the identity of the motor vehicle. MCL 750.415(2); MSA 28.647(2).

Defendant argues that there was insufficient evidence presented at trial to support the finding that the stolen car's fair market value ("FMV") exceeded $100, or the finding that defendant possessed the requisite knowledge. Viewing the evidence in the light most favorable to the prosecution, we conclude that there was sufficient evidence to prove both challenged elements. The owner of the car testified that he had purchased the car approximately one and one-half years before it was stolen for $4,500. The owner also testified that he had spent an additional $2,000 restoring the car. We believe a rational trier of fact could have found from this evidence that at the time the car was stolen its FMV exceeded $100. See *People v Watts*, 133 Mich App 80, 84; 348 NW2d 39 (1984) (observing that "an owner is qualified to testify as to the value of his property unless his evaluation is based on personal or sentimental value").[1] As for the issue of defendant's knowledge that the car was stolen, evidence presented at trial showed that the VIN plate attached to the dashboard of the stolen car was actually the VIN plate from another car defendant had purchased in August 1995. We believe a rational trier of fact could infer from this evidence that defendant had at the very least assisted in altering the dashboard VIN of the stolen car, and therefore had the requisite knowledge necessary to support the conviction.

Such reasoning also supports defendant's conviction for concealing or misrepresenting the identity of a motor vehicle with intent to mislead. Furthermore, defendant's possession of a motor vehicle with an altered VIN would by itself be sufficient to support the conviction. *People v Coon*, 200 Mich App 244, 246-247; 503 NW2d 746 (1993).

Next, defendant argues that the trial court's verdict was against the great weight of the evidence. We disagree. "A trial judge's findings of fact in a bench trial will not be set aside unless clearly erroneous. Findings are clearly erroneous when, although there is evidence to support them, the reviewing court is left with a firm conviction that a mistake has been made." *Phardel v Michigan*, 120 Mich App 806, 812; 328 NW2d 108 (1982). After reviewing the record, and acknowledging the trial court's unique perspective on witness credibility, MCR 2.613(C), we do not believe a mistake has been made.

Finally, we disagree with defendant's assertion that the sentences imposed by the trial court for his two felony convictions are disproportionate. Initially, we note that the sentence imposed for the receiving stolen property conviction falls within the legislatively established limits for an habitual offender, second offense. MCL 769.10(1)(a); MSA 28.1082(1)(a).[2] Further, we believe that defendant's record and the nature of the crimes for which he was convicted in the case at hand "evidences that . . .

defendant has an inability to conform his conduct to the laws of society." *People v Hansford (After Remand)*, 454 Mich 320, 326; 562 NW2d 460 (1997). Thus, we believe that the sentences imposed were proportionate to the circumstances surrounding this offense and this offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). We also conclude that the trial court properly declined to give defendant credit for observing between the time he was convicted and sentenced his court ordered curfew. See *People v Smith*, 195 Mich App 147, 152; 489 NW2d 135 (1992) ("Under no circumstances can we reasonably conclude that confinement in one's home . . . is the equivalent of confinement 'in jail.'"). Accordingly, we find that the trial court did not abuse its discretion when imposing sentence. *Hansford (After Remand)*, *supra* at 326.

Affirmed.

/s/ Myron H. Wahls
/s/ Donald E. Holbrook, Jr.
/s/ E. Thomas Fitzgerald

[1] While it is true that the trial court erroneously asserted that the previous owner of the car purchased by defendant in August 1995 had testified that defendant bought that car for $250, we find this error to be harmless. MCR 2.613(A). As noted in the text of our opinion, there was sufficient evidence presented at trial to support the conclusion that the stolen car's FMV was in excess of $100. Furthermore, the FMV of the car purchased by defendant is irrelevant to the issue of the FMV of the stolen car.

[2] MCL 750.415(2); MSA 28.647(2) does not include a provision addressing the maximum sentence that can be imposed for violation of the statute.