

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MELVIN L. JONES, JR.,

Defendant-Appellant.

UNPUBLISHED
October 27, 1998

No. 202895
Detroit Recorder's Court
LC No. 96-003670

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEROY JUNIOR WASHINGTON,

Defendant-Appellant.

No. 202896
Detroit Recorder's Court
LC No. 96-003670

Before: Holbrook, Jr., P.J., and Markey and Whitbeck, JJ.

PER CURIAM.

Following a bench trial, the trial court convicted defendants of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3). The trial court sentenced defendant Jones as an habitual offender, third offense, MCL 769.11; MSA 28.1083, to a term of three to fifteen years in prison. The trial court sentenced defendant Washington as an habitual offender, fourth offense, MCL 769.12; MSA 28.1084, to a term of ten to fifteen years in prison. Defendants now appeal their convictions as of right, asserting that the evidence was insufficient, as a matter of law, to convict them of second-degree home invasion. We affirm.

I. Basic Facts

The trial record indicates that on the night in question, the complainant left her home, locked and intact, around 9:00 p.m. and returned about four hours later to find her windows broken and open and her belongings rummaged or missing. While she was gone, a neighbor observed that things were amiss and called the police. A plainclothes officer testified that he responded to the scene in an unmarked car and parked across the street. He noticed that a window on the north side of the house was broken out. He walked up to the front window and looked inside. The police officer saw defendants Jones and Washington rummaging through a purse so he returned to his car, notified dispatch that a crime was in progress and waited for back-up to arrive. While waiting, the police officer noted a tan Taurus which appeared to be circling the block. When defendants Jones and Washington appeared, the driver of the Taurus sounded its horn, indicating his location. Defendants entered the Taurus and departed. Uniformed police officers stopped the car and arrested defendants and the driver. The police officers recovered a camera and case that belonged to the complainant from the car's interior.

The trial court found that the testimony clearly placed defendants inside the complainant's home without her permission. The house was violated, windows broken, doors opened and property missing. Police officers found some of that property in the possession of defendants, giving rise to the conclusion, beyond any reasonable doubt, that defendants invaded the complainant's home with the intent to steal.

II. Standard of Review

We review the sufficiency of the evidence in a bench trial of a criminal matter by looking at the evidence in a light most favorable to the prosecution and determining if a rational trier of fact could find guilt beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985).

III. Elements of the Offense

The elements of second-degree home invasion are: (1) breaking and entering a dwelling or entering a dwelling without permission; and (2) the entry is made with the intent to commit either a larceny or a felony, MCL 750.110a(3); MSA 28.305(a)(3). See also *People v Warren*, 228 Mich App 336, 347-348; 578 NW2d 692 (1998). "Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime." *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996) (citation omitted). "A prosecutor need not negate every reasonable theory of innocence, but must prove his own theory beyond a reasonable doubt in the face of whatever contradictory evidence the defendant provides." *People v Quinn*, 219 Mich App 571, 574; 557 NW2d 151 (1996).

IV. Sufficiency of the Evidence

Defendant Jones argues that because he was not actually seen emerging from the complainant's home and because he was empty handed when he entered the Taurus, the elements of the crime have not been proven. Defendant Washington argues that because the evidence suggests that the complainant's camera was already in the Taurus before he entered it and because the driver was convicted as a principal, the verdicts are inconsistent. However, these assertions place a greater burden of proof on the prosecution than the law requires. It is not incumbent on the prosecution to explain

everything that happened that night, *Quinn, supra* at 574, and evidence of defendants' concerted action allows for inferences of possession to be drawn against each of them. *People v Thompson*, 114 Mich App 302, 307; 319 NW2d 568 (1982). The prosecution carried its burden simply by showing that defendants made an unauthorized entrance into a dwelling with a larcenous intent. Since the elements of the charged crime were established, defendants' contentions that the prosecution did not explain every detail are unpersuasive.

Based on the evidence in the record, a rational trier of fact could have concluded, beyond a reasonable doubt, that defendants committed the charged acts. Accordingly, the evidence was sufficient to support defendants' convictions of second-degree home invasion.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Jane E. Markey

/s/ William C. Whitbeck