

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL ERIC BORDNER,

Defendant-Appellant.

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UNPUBLISHED

February 19, 1999

No. 205144

St. Joseph Circuit Court

LC No. 96-008409 FH

Before: Murphy, P.J., and MacKenzie and Talbot, JJ.

MEMORANDUM.

Defendant appeals by right his conviction of selling alcoholic liquor without a license, MCL 436.50; MSA 18.1021. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant contends that there is insufficient evidence to support his conviction under an aiding and abetting theory.<sup>1</sup> 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 and 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). The prosecution need not negate every reasonable theory of innocence, but must only prove its 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).

Here, we find that there is sufficient evidence to convict defendant of aiding and abetting in the sale of beer at defendant's unlicensed business premises by defendant's father-in-law that was observed by a police officer. Viewing the evidence in the light most favorable to the prosecution, the police officer's testimony that defendant admitted his business takes "donations" from patrons for beer stored on the premises supports the inference defendant did not merely allow his customers to store their own beer on the premises, but knowingly provided beer to his customers in exchange for consideration. See MCL 436.26c; MSA 18.997(3). The large amount of the unopened and opened beer found on the

premises, the receipt showing that defendant had purchased three cases of beer and a copier for his business one week earlier, and the I.O.U. document showing that one customer owed eight dollars for eight “beers,” as well as other debts for various food purchases, provide further circumstantial proof that defendant was aware of and intended to provide beer for consideration.<sup>2</sup>

Affirmed.

/s/ William B. Murphy

/s/ Barbara B. MacKenzie

/s/ Michael J. Talbot

<sup>1</sup> It is perhaps questionable whether the prosecution even needed to establish that defendant knowingly and intentionally aided and abetted the sale of beer by his agents. See MCL 436.44; 18.1015; *People v Damm*, 183 Mich 554; 149 NW 1002 (1914); *People v Longwell*, 120 Mich 311; 79 NW 484 (1899); *People v Roby*, 52 Mich 577; 18 NW 365 (1884).

<sup>2</sup> Incidentally, merely allowing customers to consume their own alcoholic beer in an unlicensed commercial establishment where food is sold constitutes a violation of MCL 436.26c; MSA 18.997(3).