

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RALPH J. GONZALES,

Defendant-Appellant.

UNPUBLISHED

November 30, 1999

No. 206107

Recorder's Court

LC No. 96-005455

Before: Jansen, P.J., and Hoekstra and J. R. Cooper*, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction of breaking and entering an unoccupied dwelling, MCL 750.110; MSA 28.305, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The charge against defendant arose out of his removal of several items from a duplex where he had been working. Defendant was discharged from his employment, and upon his termination, he refused to surrender the keys to the premises, and said that he would get even for the discharge. A week after the discharge, defendant was apprehended removing buckets of paint, a cabinet, and a sink from the duplex. Defendant admitted entering the premises and taking the paint. He claimed that he only returned to get his tools, and that once in the duplex, he decided to take the paint because the owner owed him money. The court found defendant guilty of breaking and entering an unoccupied dwelling.

On appeal, defendant argues that the trial court's findings of fact are erroneous, and that there is insufficient evidence to support his conviction. We disagree.

Findings of fact are reviewed in the context of the evidence presented, and must be sufficient to show that the trial court was aware of the issues in the case and correctly applied the law. *People v Legg*, 197 Mich App 131, 134; 494 NW2d 797 (1992). A court's failure to find facts does not require remand where it is manifest that the court was aware of the factual issues, resolved the issues,

* Circuit judge, sitting on the Court of Appeals by assignment.

and that further explication would not facilitate appellate review. *Id.* Here, the court reviewed the evidence prior to issuing its decision, and found that defendant refused to

surrender the keys and said he would get even for his firing. This finding indicates that the court was aware of defendant's claim of right and lack of intent issues, and rejected these defenses. The findings are sufficient for appellate review.

When determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). Here, the testimony regarding defendant's refusal to surrender the keys, and his statement that he would get even are sufficient evidence to defeat his claim that he took the property as a matter of right, and that he lacked the intent to commit larceny. A rational finder of fact could have found the elements of the crime were proven beyond a reasonable doubt.

Affirmed.

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra

/s/ Jessica R. Cooper