

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ABEL LOPEZ,

Defendant-Appellant.

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UNPUBLISHED

November 30, 1999

No. 212132

Wayne Circuit Court

Criminal Division

LC No. 98-000768

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

PER CURIAM.

Defendant appeals as of right from his conviction of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant's home was broken into and various items were taken during a time in which complainant was not present. A witness identified defendant as the person who knocked on complainant's door and then several minutes later, accompanied by another person, climbed over complainant's back fence. Shortly thereafter, the witness observed defendant and the other person running toward the fence. Each was carrying objects. The witness identified defendant's car as being black in color with a spoiler on the back. The police located a car matching the description in a driveway in complainant's neighborhood. The home owner indicated that defendant could be found next door. The police arrested defendant and searched the house and car, but found no items taken from complainant's home.

The trial court found defendant guilty based on the witness's description of his clothing and car. Subsequently, the court sentenced defendant to three years' probation, with the first six months to be served on electronic tether.

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

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable

doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999).

Defendant argues that the trial court's findings of fact were clearly erroneous, and that the evidence identifying him as one of the perpetrators of the home invasion was insufficient to support his conviction. We disagree and affirm. The description of defendant given by the witness was inaccurate only in its failure to include defendant's facial hair. The witness accurately described the color of defendant's car, and correctly noted that the car sported a spoiler. The witness's testimony, coupled with that of the neighbor that the car identified by the witness belonged to defendant, supported the trial court's finding that defendant was a participant in the home invasion. The trial court's finding was not clearly erroneous. MCR 2.613(C); *Hermiz*, *supra*. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. *Petrella*, *supra*.

Affirmed.

/s/ Kathleen Jansen  
/s/ Joel P. Hoekstra  
/s/ Jessica R. Cooper