

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAYSON KYLE HAWKINS,

Defendant-Appellant.

UNPUBLISHED

March 23, 2001

No. 219689

Oakland Circuit Court

LC No. 98-158473-FH

Before: Markey, P.J., and Jansen and Zahra, JJ.

PER CURIAM.

Defendant, a juvenile, was convicted by a jury of first-degree home invasion, MCL 750.110a; MSA28.305(a), sentenced to juvenile probation and committed to the Michigan Family Independence Agency pursuant to MCL 803.301 *et seq.*; MSA 25.399(51) *et seq.* Defendant is alleged to have committed the offense with two other juveniles. Defendant appeals as of right, asserting that the evidence was insufficient to sustain his conviction. We affirm.

In reviewing the sufficiency of the evidence, this Court must view the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999). This Court must not interfere with the jury's role of determining the weight of evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748, modified 441 Mich 1201 (1992); *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

MCL 750.110a; MSA 28.305(a), provides, in pertinent part:

(2) A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

For purposes of the statute, a “dangerous weapon” is “an object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon” MCL 750.110a(b)(iii); MSA 28.305(a)(b)(iii). The basic elements of larceny are: (1) an actual or constructive taking of goods or property, (2) a carrying away or asportation, (3) felonious intent, (4) the subject matter must be the goods or personal property of another, and (5) the taking must be without the consent and against the will of the owner. *People v Cain*, 238 Mich App 95, 120; 605 NW2d 28 (1999). As soon as criminal intent is present, the slightest movement of goods constitutes aspiration sufficient to establish the carrying away or asportation of goods. MCL 750.360; MSA 28.592; *People v McFarland*, 165 Mich App 779, 782; 419 NW2d 68 (1988).

Here, the complainants testified that they did not give defendant or any of the other codefendants permission to enter their home. The broken window on the front door supports the conclusion that entry was accomplished without the consent or permission of the owners.

The two accomplices testified that they, along with defendant, broke into the complainants’ house for the purpose of stealing possessions from the home. This testimony was corroborated by the police observations that the complainant’s jewelry box was dumped out on the bed with a number of items missing and that other items were moved from their respective places. This evidence supports the conclusion that defendant entered the residence to commit a larceny.

An accomplice also testified that defendant had both a utility knife and a flashlight when they decided to enter the house. Upon arriving at the home, defendant went into the garage and came out with scissors or wire cutters, a wooden bat, an aluminum bat and a hatchet. Defendant had the hatchet and the utility knife when he was in the house. Defendant also picked up a butcher knife and other kitchen knives and told an accomplice that he was taking the weapons “just in case.” The responding police officer also testified that he saw defendant trying to leave the house with a baseball bat in his hand.

Viewed in a light most favorable to the prosecution, this evidence was sufficient to allow a rational trier of fact to find that the essential elements of first-degree home invasion were proven beyond a reasonable doubt. *Johnson, supra*. Although defendant questions the motives of the codefendants and the reliability of the arresting officer’s identification testimony, the credibility of these witnesses and the weight of their testimony were matters for the trier of fact to resolve. *Wolfe, supra; Terry, supra*.

Affirmed.

/s/ Jane E. Markey
/s/ Kathleen Jansen
/s/ Brian K. Zahra