STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN ALLAN FALICKI,

Defendant-Appellant.

UNPUBLISHED
December 28, 2001

No. 225787
Kalkaska Circuit Court
LC No. 99-001925-FH

Before: Meter, P.J., and Jansen and R. D. Gotham*, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of operating under the influence of intoxicating liquor causing serious impairment of a body function of another person, MCL 257.625(5), and furnishing alcohol to a minor, MCL 436.1701(1). The trial court sentenced him to 36 months' probation with the first 270 days to be served in jail for the OUIL causing injury conviction and fined him $1,000 for the furnishing to a minor conviction. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On July 25, 1998 a car driven by Willow Goss struck another car head on, causing serious leg injuries to one of the occupants. Goss, whose blood alcohol level was .17 percent, had been drinking beer with defendant, a friend and a passenger in her car, for several hours before the collision and he purchased all the beer they consumed. Defendant was tried on an aiding and abetting theory. His sole claim on appeal is that there was insufficient evidence to sustain his conviction.

Aiding and abetting describes all forms of assistance rendered to the perpetrator of a crime and comprehends all words or deeds that might support, encourage or incite the commission of a crime. *People v Carines,* 460 Mich 750, 757; 597 NW2d 130 (1999). The quantum of aid or advice is immaterial as long as it had the effect of inducing the crime. *People v Lawton,* 196 Mich App 341, 352; 492 NW2d 810 (1992). To support a finding that a defendant aided and abetted a crime, the prosecution must show that (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission of the crime, and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and

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

encouragement. *Carines, supra* at 757. Thus, the requisite intent for conviction of a crime as an aider and abettor is "that necessary to be convicted of the crime as a principal." *People v Mass*, 464 Mich 615, 628; 628 NW2d 540 (2001). This intent may be inferred from circumstantial evidence. *People v Wilson*, 196 Mich App 604, 614; 493 NW2d 471 (1992). A person can aid and abet general intent crimes such as those involving negligence or gross negligence. *People v Malach*, 202 Mich App 266, 277; 507 NW2d 834 (1993); *People v Turner*, 125 Mich App 8, 11-12; 336 NW2d 217 (1983). In *People v Lardie*, 452 Mich 231, 267; 551 NW2d 656 (1996), our Supreme Court held that OUIL causing death is a general intent crime and defined that general intent as deciding to drive after consuming intoxicants. We conclude that the same general intent applies to OUIL causing injury.

Defendant contends that the evidence did not establish that he intended that Goss drive drunk when he supplied her with beer or that defendant knew of her intention to drink and drive when he supplied her with beer. However, because *Lardie, supra,* makes it clear that the intent element of OUIL is the decision to drive after drinking, the focus is not exclusively on defendant's mental state when he supplied the liquor to Goss, but also at the time she decided to drive while intoxicated, that is, whether he aided or encouraged her to drink and then to drive knowing she was intoxicated.

When reviewing a challenge to the sufficiency of the evidence, this Court views the evidence in a light most favorable to the prosecution to determine if a rational trier of fact could find the elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). Here, Goss picked up defendant in the early afternoon and they had no particular plans other than going to a residence she was house sitting. On the way, defendant bought beer and Goss heard about a party planned for that night. Defendant made beer available on a continuous basis throughout the day, and as the prosecution notes, there was apparently a general unstated assumption that she would be doing all the driving. After more than six hours at the house, defendant reminded Goss about the party. The jury could reasonably infer that when he asked if they were going to the party, defendant could tell that Goss was intoxicated and that he expected she would drive. Because the circumstantial evidence showed that defendant furnished beer to Goss and then suggested that they travel to the party, prompting her to decide to drive although it was apparent that she was intoxicated, the evidence was sufficient to support his conviction of aiding and abetting OUIL causing injury.

Affirmed.

/s/ Patrick M. Meter
/s/ Kathleen Jansen
/s/ Roy D. Gotham