STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM PHILLIPS,

Defendant-Appellant.

UNPUBLISHED
March 12, 2002

No. 230136
Wayne Circuit Court
LC No. 99-011911

Before: Bandstra, P.J., and Murphy and Murray, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of larceny over $100, MCL 750.356, and assault and battery, MCL 750.81, entered after a bench trial. We affirm.

Defendant was charged with unarmed robbery, MCL 750.530, and assault and battery arising out of an incident involving complainant, his former girlfriend. Complainant testified that defendant came to her place of employment, a group home for mentally challenged persons, and demanded entrance. Defendant gained entrance to the facility by a method unknown to complainant. Complainant testified that defendant hit her several times in the face, took a gold chain valued at $300 from around her neck, grabbed her purse, and left the facility. The purse, but not the chain, was returned to complainant's home later in the day. Defendant testified that complainant admitted him to the facility and gave him the chain when he asked for it. He denied striking complainant.

The trial court acquitted defendant of unarmed robbery, but found him guilty of the lesser included offense of larceny over $100[1] and assault and battery. The court found the testimony given by complainant more credible than that given by defendant.

[1] The trial court referred to the offense as larceny from a person, MCL 750.357, but it is clear from the record that the court convicted defendant of larceny over $100. Larceny from a person carries a maximum term of ten years in prison. At sentencing, the court noted that it could impose a maximum term of five years in prison, the term applicable to the offense of larceny over $100 prior to the amendment of MCL 750.356 in 1998. See 1988 PA 311. The offenses of larceny over $100 and larceny from a person share many of the same elements. However, larceny over $100 requires a showing that the fair market value of the property exceeded $100 at

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On appeal, defendant argues that the evidence at trial was insufficient to support his convictions. We disagree. 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. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985). 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. *Id.* at 275; *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 court was aware of the issues 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), aff'd by equal division 462 Mich 71; 611 NW2d 783 (2000).

The elements of larceny over $100 are: (1) that the defendant took someone else's property; (2) that the property was taken without consent; (3) that there was some movement of the property; (4) that at the time the property was taken, the defendant intended to deprive the owner of it permanently; and (5) that the property had a fair market value of more than $100 at the time it was taken. CJI2d 23.1.[2] An "assault is either an attempt to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery. A battery is the consummation of an assault." *People v Terry*, 217 Mich App 660, 662; 553 NW2d 23 (1996).

Here, complainant testified that she did not know how defendant gained entrance to her place of employment, which was secured by a locked door. Nevertheless, the undisputed evidence established that defendant entered the facility. Complainant's testimony, which the trial court was entitled to believe, *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989), established that defendant struck complainant several times, took her property, including a chain valued at $300, and left the facility. Defendant's intent to deprive complainant of the chain on a permanent basis can be inferred from the evidence that complainant's purse, but not the chain, was returned. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's convictions of larceny over $100 and assault and battery. *Petrella*, *supra*.

We affirm.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray

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the time it was taken. See *infra*.

[2] The incident which resulted in the charges against defendant occurred in 1998, prior to the effective date of the amended version of MCL 750.356.