

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN DAVID CRITCHFIELD,

Defendant-Appellant.

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UNPUBLISHED

December 11, 2003

No. 242361

Oakland Circuit Court

LC No. 2001-181528-FH

Before: Cavanagh, P.J., and Jansen and O’Connell, JJ.

PER CURIAM.

Defendant appeals of right his conviction following a jury trial for larceny by conversion of more than \$20,000, MCL 750.362. We affirm.

This case arose when defendant provided false information to a car dealership, signed a purchase agreement for a car, took the car for a test drive, and never brought it back.

Defendant first argues that the trial court erroneously allowed the prosecution to endorse four new witnesses on the first day of trial. We disagree. We review for abuse of discretion a trial court’s decision to allow a prosecutor’s late endorsement of a witness. *People v Canter*, 197 Mich App 550, 563; 496 NW2d 336 (1992).

While MCL 767.40a requires prosecutors to provide a complete witness list to a defendant at least thirty days before trial, the statute also allows a prosecutor to add a witness “at any time upon leave of the court and for good cause shown.” In this case, the prosecutor stated that she reviewed the preliminary examination before trial and found that defendant correctly argued that the preliminary examination testimony regarding the timing of the car’s eventual recovery and defendant’s arrest depended on multiple layers of hearsay among various officers and dealership staff. She also found a witness who could provide first hand evidence that the address defendant provided the dealership was false. The information underlying the additional testimony was contained in police reports that were duly provided defendant. The prosecutor filed her endorsement motion three weeks before trial. She argued that she only wanted to present a clean case rather than confusing the record with too many rebuttal witnesses. Given the total lack of prejudice to defendant and the legitimate explanation for adding the witnesses, the trial court did not abuse its discretion when it allowed the prosecutor to endorse them.

Next, defendant argues that the prosecutor committed misconduct by eliciting testimony that the woman whose address defendant falsely gave the dealership obtained a personal protection order against him. We disagree. Careful review of the record demonstrates that the witness's testimony regarding the PPO was not responsive to the prosecutor's question. The prosecutor merely asked if the witness had contact with defendant around the time defendant took possession of the car. The question permissibly related to defendant's intent, because it showed that defendant deceptively provided the address to the dealership and did not simply misconceive that he had legitimate grounds to claim the address as his own. Therefore, the prosecutor did not commit the misconduct alleged.

Finally, defendant argues that the trial court erred when it denied his motion for a directed verdict. He argues that the prosecutor presented insufficient evidence of defendant's intent to permanently keep the car from its rightful owner. We disagree. Minimal circumstantial evidence is sufficient to prove an actor's state of mind. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999).

In this case, defendant provided a false address and an electronic pager number to the dealership before he took the car. He also provided them with information from a suspended driver's license. He did not return calls regarding the car's whereabouts, and he retained possession long after the car was due back. Further, the jury could reasonably find that defendant only told the dealership where the car was located after his arrest. Based on these circumstances, a reasonable trier of fact could find that defendant intended to permanently deprive the car's rightful owner of its use when he kept it for himself. Therefore, the trial court did not err when it denied defendant's motion for a directed verdict. *People v Cain*, 238 Mich App 95, 117; 605 NW2d 28 (1999).

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen  
/s/ Peter D. O'Connell