

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ARTHUR FOREMAN, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

ARTHUR FOREMAN,

Respondent-Appellant.

UNPUBLISHED
December 18, 2003

No. 242863
Wayne Circuit Court
LC No. 01-401849

Before: Fitzgerald, P.J., and Neff and White, JJ.

MEMORANDUM.

Respondent appeals as of right from an order of disposition entered following delinquency proceedings in which the trial court determined that he committed second-degree home invasion, MCL 750.110a(3). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The sufficiency of the evidence in a bench trial is reviewed de novo on appeal and we review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that each element of the crime was proved beyond a reasonable doubt. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of the crime. *People v Gould*, 225 Mich App 79, 86; 570 NW2d 140 (1997). The trial court's factual findings are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

The elements of second-degree home invasion are (1) that the defendant (a) broke and entered a dwelling or (b) entered a dwelling without permission, and (2) that when the defendant broke and entered the dwelling or entered the dwelling without permission, he intended to commit a felony, larceny, or assault therein. MCL 750.110a(3). The prosecutor need not show that the larceny was successful; all that is required is that the defendant intended to commit the larceny at the time he entered the dwelling. *People v Adams*, 202 Mich App 385, 390; 509 NW2d 530 (1993). The defendant's intent may be proved from circumstantial evidence alone as

well as from facts and circumstances established beyond a reasonable doubt. *People v Strong*, 143 Mich App 442, 452; 372 NW2d 335 (1985).

The evidence showed that the victim's house had recently been broken into and several items were missing. Respondent was found hiding near the back gate and a bag of the homeowner's videotapes was found on the ground near the house. Respondent, the only other person in the area, at first gave a story about looking for his keys and then admitted that he had been inside the house. The evidence was sufficient to sustain the verdict.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Helene N. White