

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEFFINEY ANN CARPENTER,

Defendant-Appellant.

UNPUBLISHED

May 25, 2004

No. 244515

Charlevoix Circuit Court

LC No. 02-068909-FH

Before: Whitbeck, C.J., and Griffin and Borrello, JJ.

PER CURIAM.

Defendant Steffiney Carpenter appeals as of right her jury conviction on a charge of larceny in a building.¹ The trial court sentenced Carpenter to six months in jail and twenty-four months' probation and ordered her pay costs, fees, and restitution. We affirm.

I. Basic Facts And Procedural History

This case arose when Linda Davison, Carpenter's mother, discovered that a VCR, two TV/VCR units, and two guns were missing from the East Jordan home where she spent her weekends. Davison reported the items missing to police on November 22, 2001.

At the trial in this matter, Davison testified that during November 2001, she lived in Flint with her boyfriend, Patrick Dean York, but spent the weekends at her house in East Jordan. On Friday, November 16, Davison joined York at the East Jordan house, where York had been deer hunting, and the two spent the weekend there. Davison and York left the house at 5:00 a.m. on Monday, November 19, and returned to Flint. Davison testified that she saw all the items that later went missing in her house on Sunday, November 18.

After arriving in Flint, Davison found a message from Carpenter telling Davison that the garage door had been left open at the East Jordan home. Davison told Carpenter to go to her house and close the garage door. Davison clarified at trial, however, that Carpenter did not have permission to enter her home because Davison had previously discovered that things were missing from the house, and Davison had changed the locks on the doors in response. When Davison returned to the East Jordan house on the morning of November 22, she noticed that the items in question were missing.

¹ MCL 750.360.

Michigan State Police Sergeant Michael McCarthy, who assisted with the investigation, determined that Davison's home had not been forcefully entered or ransacked. McCarthy then received a telephone call from a friend of Davison, Theresa Boyd, who gave him Carpenter's name in connection with the missing items. McCarthy contacted Carpenter, who told him that York had put the two TV's and the VCR in a storage building on Carpenter's property on November 15. Boyd testified that she was at Carpenter's home on November 16 and saw the TV/VCR units and the VCR in Carpenter's storage building. Carpenter admitted she took the items from the storage building to Traverse City to pawn them for money to buy propane.

Joel Walton was the clerk on duty when Carpenter came into the pawnshop on November 19. Walton testified that Carpenter entered the store at 1:00 p.m. with jewelry and a camcorder to borrow money against them in a transaction known as a "buy-back," in which the store holds the item for thirty days in case the customer decides to buy it back. Walton testified that Carpenter returned to the store at 4:58 p.m. on the same day and brought in two TV/VCR units and a VCR. Walton stated that this transaction was not a buy-back but a sale. Walton gave Carpenter \$80 for the jewelry and camcorder and \$75 for the TV/VCR units and the VCR. Defense counsel stipulated that Carpenter was at the pawnshop on November 19.

Carpenter also told Charlevoix County Sheriff Department Detective Donald Sproul that York had left the items in her storage building as an early Christmas present, and that she then pawned the items. Scott Haley, Carpenter's uncle, testified that he heard York say that he was giving Carpenter a TV and VCR. With respect to the missing guns, Sproul testified that a gun case with two guns in it was discovered on November 23 along the side of the road on M-72 and turned in to police. According to Sproul, the guns were found on the route Carpenter took to the pawnshop in Traverse City.

Carpenter was charged with second-degree home invasion and larceny in a building, and the jury found her guilty of the lesser offense of larceny in a building. This appeal followed.

II. Sufficiency Of The Evidence

A. Standard Of Review

Carpenter's sole argument on appeal is that insufficient evidence was presented to support her conviction. We review *de novo* challenges to the sufficiency of the evidence, taking the evidence in the light most favorable to the prosecutor and determining whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt.² When reviewing claims involving sufficiency of the evidence, we will not interfere with the jury's role as the sole judge of the facts.³

² *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999); *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001).

³ *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992).

B. Legal Standards

The prosecution may prove the elements of a crime through circumstantial evidence and reasonable inferences arising from the evidence.⁴ A prosecutor does not have to disprove every reasonable theory of innocence but, rather, must prove his theory beyond a reasonable doubt despite any contradictory evidence the defense provides.⁵

C. Elements Of The Crime

MCL 750.360 defines the crime of larceny in a building as follows:

Any person who shall commit the crime of larceny by stealing in any dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, barn, granary, ship, boat, vessel, church, house of worship, locker room or any building used by the public shall be guilty of a felony.

D. The Evidence

Carpenter did not dispute that she took the allegedly stolen items to a pawnshop. However, she claims that the prosecution failed to offer sufficient evidence to prove that she took the items from the home of another. Accordingly, she argues that she cannot be convicted of larceny in a building because the items she pawned were taken from a building she owned. We disagree.

Carpenter's defense was that York put the items in her storage area as a Christmas gift. However, York testified that he did not give Carpenter the items or take them to her home. Although the prosecution offered no direct evidence to show that Carpenter went into Davison's home and took the items, as noted, the prosecution may prove the elements of the crime through circumstantial evidence.⁶ Moreover, we will not interfere with the jury's role of determining the relative credibility of the testimony of Carpenter and York.⁷ We therefore conclude that, viewing the evidence in the light most favorable to the prosecutor, Carpenter's conviction of larceny in a building was supported by sufficient evidence.

Affirmed.

/s/ William C. Whitbeck

/s/ Richard Allen Griffin

/s/ Stephen L. Borrello

⁴ *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

⁵ *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

⁶ *Carines*, *supra* at 757.

⁷ *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).