

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LENERO ANTHONY THOMAS,

Defendant-Appellant.

UNPUBLISHED

December 23, 2008

No. 280728

Kent Circuit Court

LC No. 06-010405-FH

Before: Murray, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Defendant appeals by right his jury convictions of larceny in a building, MCL 750.360, and aggravated assault, MCL 750.81a. Defendant was sentenced as a third habitual offender, MCL 769.11, to two to eight years in prison for larceny, and to pay a \$100 fine for the assault conviction. We affirm.

Defendant's convictions resulted from his assault of Charla Burkett. Defendant violently assaulted Burkett in her apartment when she could not remove a ring she was wearing that had apparently been gifted to her by her previous fiancé. Later, under the cover of running water as defendant filled the apartment's bathtub, Burkett left and went to a neighbor's home where she called the police. When she returned, she discovered that her rent check and approximately \$120 were missing from her purse. Police later apprehended defendant when he attempted to return to Burkett's apartment. The police found \$126 in cash and the check in defendant's possession.

On appeal, defendant argues that the prosecution presented insufficient evidence to support his conviction of larceny. We disagree.

We review a defendant's allegations regarding insufficiency of the evidence *de novo*. *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001). We view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *Id.* We will not interfere with the jury's role of determining the weight of the evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992). Satisfactory proof of the elements of the crime can be shown by circumstantial evidence and reasonable inferences arising therefrom. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999). All conflicts in the evidence must be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

The elements of larceny in a building are: (1) the actual or constructive taking of goods or property of another, (2) without the consent and against the will of the owner, (3) a carrying away or asportation of the goods, (4) with felonious intent, and (5) the taking occurred within the confines of the building. MCL 750.360; *People v Sykes*, 229 Mich App 254, 278; 582 NW2d 197 (1998). Defendant argues that the prosecution failed to provide sufficient evidence that he took the money with an intent to permanently deprive Burkett of it. However, because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient to establish the element of intent. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). At trial, the prosecution presented defendant's letter to Burkett in which he admitted that he took the money "out of anger and revenge." This was sufficient to establish that, at the time of the taking, defendant intended to permanently deprive Burkett of the property, and thus that he had felonious intent. The prosecutor was not required to disprove defendant's trial theory that defendant took Burkett's money and check because he did not want her to spend it on her drug habit. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Defendant also argues that the trial court inappropriately relied on inaccurate information during sentencing. Defendant's sentence fell within the properly scored guidelines. Accordingly, we are required to affirm defendant's sentence unless the trial court erred in scoring the guidelines or relied on inaccurate information. MCL 769.34(10). Here, prior to sentencing, the prosecution presented the trial court with a letter written to Burkett by defendant. According to the prosecutor, Burkett had given the letter to the prosecutor and had stated that she had "fears and concerns that Mr. Thomas admits that he beats women, enjoys beating women, will continue to beat women, and for some warped reason thinks it is his purpose bestowed upon him by God to beat women in order to educate them." Although defendant's argument is somewhat unclear, he appears to argue now that the trial court took this letter out of context and did not provide defendant with an opportunity to explain it to the court before sentencing.

Defendant is not challenging the validity of the letters he wrote to Burkett. His challenge runs instead to the trial court's interpretation of those letters. Defendant, however, cannot show that the trial court relied on "inaccurate information" during sentencing and is not entitled to relief on this ground. In fact, defendant's words support a conclusion that he thinks part of God's will is for him to "chastise" women that he "loves" in order to help them. The record supports the trial court's finding that defendant's actions were consistent with a mistaken belief that he was doing the right thing when he beat the victim.

Defendant's assertion that the trial court did not allow him to respond during sentencing is likewise without merit. The trial court asked defendant to respond to items in the presentence report or to "any other matter." In response, defendant indicated that he had written a letter and asked the trial court to read it. The trial court did so and summarized its contents on the record. Defendant is not entitled to resentencing.

Affirmed.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Kurtis T. Wilder