

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEVIN LEE THOMAS,

Defendant-Appellant.

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UNPUBLISHED

July 22, 2010

No. 290238

Genesee Circuit Court

LC No. 08-022267-FC

Before: SAAD, P.J., and HOEKSTRA and SERVITTO, JJ.

HOEKSTRA, J. (*concurring in part and dissenting in part*).

I agree with the majority that defendant waived appellate review of his sentences for the kidnapping convictions. I also agree with the majority that defendant's carjacking conviction relating to JE's vehicle is supported by sufficient evidence. I respectfully disagree with the majority that defendant's carjacking convictions relating to SF's and KL's vehicles are supported by sufficient evidence. The intent to permanently deprive someone of her property is generally understood as the intent to steal. *People v Jones*, 98 Mich App 421, 425; 296 NW2d 268 (1980). Because defendant drove JE's vehicle from the mall parking lot after she escaped and later asked two people if they were interested in buying a stolen vehicle, a rational trier of fact could find that defendant had the intent to steal the vehicle. In contrast, after abducting SF and KL in their vehicles, robbing them, and then driving them to a rural location and sexually assaulting them in their vehicles, defendant allowed each woman to leave by driving off in her car. Under these circumstances, the evidence does not establish that defendant had the intent to steal the vehicles. Rather it evinces the intent to use the vehicles as the means to accomplice the abductions, robberies and sexual assaults, but not to steal them. Accordingly, I would vacate defendant's carjacking convictions relating to SF's and KL's vehicles.

/s/ Joel P. Hoekstra