

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,  
  
Plaintiff-Appellee,

UNPUBLISHED  
August 23, 2011

v

SAMUEL JOSEPH BITHELL,  
  
Defendant-Appellant.

No. 298618  
Oakland Circuit Court  
LC No. 2009-229051-FH

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Before: MARKEY, P.J., and SAAD and GLEICHER, JJ.

MEMORANDUM.

A jury convicted defendant of first-degree home invasion, MCL 750.110a(2), and the trial court sentenced defendant as a third habitual offender, MCL 769.11, to five to forty years in prison. Defendant appeals his conviction, and we affirm.

Defendant claims the prosecutor presented insufficient evidence to prove beyond a reasonable doubt that he was the person who broke into the victim's apartment and assaulted him. We review de novo a challenge to the sufficiency of the evidence. *People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010). MCL 750.110a(2) sets forth the elements of the crime of first-degree home invasion:

A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

- (a) The person is armed with a dangerous weapon.
- (b) Another person is lawfully present in the dwelling.

“When reviewing a claim of insufficient evidence, this Court reviews the record in a 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.” *Malone*, 287 Mich

App at 654. We resolve all evidentiary conflicts in favor of the prosecution, *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004), and “afford deference to the jury’s special opportunity to weigh the evidence and assess the credibility of the witnesses,” *People v Unger*, 278 Mich App 210, 228-229; 749 NW2d 272 (2008).

The prosecutor presented evidence that, at approximately midnight, the victim was in his apartment when defendant kicked in his apartment door. Defendant then entered the apartment and repeatedly assaulted the victim. After defendant left the apartment, the victim immediately called the police, who confirmed the evidence of forcible entry, observed that the victim had been beaten, and took photographs of the broken door and the victim’s injuries. Further, the victim unequivocally identified defendant as his assailant. A detective questioned defendant and, though he denied any involvement in the crime, he had swelling, abrasions, and cuts on his knuckles. When asked about the injuries, defendant hid his hands under his armpits. The evidence presented was clearly sufficient to establish the elements of first-degree home invasion and that defendant committed the crime.

Affirmed.

/s/ Jane E. Markey  
/s/ Henry William Saad  
/s/ Elizabeth L. Gleicher