STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 10, 2011
v	No. 300032 Van Buren Circuit Court
RICHARD BOY TORRES, Defendant-Appellant.	LC No. 10-016956-FC

Before: JANSEN, P.J., and SAWYER and SHAPIRO, JJ.

PER CURIAM.

Defendant appeals by right his jury-trial convictions of first-degree home invasion, MCL 750.110a(2), attempted disarming of a police officer, MCL 750.92; MCL 750.479b(2), and resisting or obstructing an officer causing injury requiring medical care, MCL 750.81d(2). He was sentenced as a fourth habitual offender, MCL 769.12, to concurrent prison terms of 20 to 40 years for the home invasion conviction, 4 to 15 years for the attempted disarming conviction, and 3 to 15 years for the resisting-or-obstructing conviction. We affirm.

This case arises out of an assault on defendant's former girlfriend (the victim). The victim and defendant had an on-again, off-again relationship, and lived together in the past. However, defendant did not live with the victim at the time of the assault, and he did not have permission to enter the victim's home. The doors of the victim's home were locked, and defendant did not have a key. The assault occurred when defendant gained entry to the victim's home late at night, went to her bedroom, and attacked her with two knives.

Defendant argues that there was insufficient evidence to support his conviction of first-degree home invasion. He alleges that he had permission to enter the home and, therefore, that no breaking occurred. He also alleges that he did not have the requisite intent for first-degree home invasion because he was intoxicated and cannot remember the assault or the breaking and entering.

In reviewing a claim of insufficient evidence, we examine the evidence in a light most favorable to the prosecution, resolving all evidentiary conflicts in its favor, to determine whether a rational trier of fact could have found that the essential elements of the offense were proved beyond reasonable doubt. *People v Ericksen*, 288 Mich App 192, 196; 793 NW2d 120 (2010).

MCL 750.110a(2) provides:

> 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.

In this case, there was sufficient evidence presented at trial to enable a rational trier of fact to find that the elements of first-degree home invasion had been proven beyond a reasonable doubt. Defendant argues that he had permission to enter the home, and thus no breaking occurred. However, the victim testified that defendant did not have permission to enter the home. Further, she testified that defendant never had permission to come and go from her home at will. All evidentiary disputes must be resolved in favor of the prosecution on appeal. *Ericksen*, 288 Mich at 196.

Viewed in a light most favorable to the prosecution, there was sufficient evidence to prove beyond a reasonable doubt that defendant entered the victim's home without permission. Furthermore, the evidence supported a reasonable inference that defendant committed a breaking when he entered the home. Any amount of force used to open a door or window, however slight, constitutes a breaking, *People v Toole*, 227 Mich App 656, 659; 576 NW2d 441 (1998), and "reasonable inferences arising [from the evidence] may be sufficient to prove the elements of a crime," *People v Plummer*, 229 Mich App 293, 299; 581 NW2d 753 (1998). Irrespective of whether defendant actually committed a breaking when he entered the home or merely entered the home without permission, his conduct fell squarely within the language of MCL 750.110a(2). A rational trier of fact could have found beyond a reasonable doubt that defendant either broke into the victim's home or entered the home without permission within the meaning of MCL 750.110a(2).

Defendant also argues that because of his inability to remember the attack, he must have lacked the intent to commit an assault at the time he entered the home. A jury may infer a defendant's intent based on his actions and words. *People v Hawkins*, 245 Mich App 439, 458; 628 NW2d 105 (2001). Here, defendant entered the victim's home armed with two knives and proclaimed that he was going to kill her. Defendant's actions and words constituted sufficient evidence from which a rational jury could have inferred that he entered the victim's home with the intent to commit an assault.

Moreover, even if defendant lacked the intent to commit an assault at the time he entered the victim's home, the evidence established that he actually committed an assault with a

dangerous weapon[1] after entering the dwelling. This evidence, alone, was sufficient to prove the remaining elements of the offense of first-degree home invasion beyond a reasonable doubt. MCL 750.110a(2); see also *People v Sands*, 261 Mich App 158, 163; 680 NW2d 500 (2004); *People v Musser*, 259 Mich App 215, 222-224; 673 NW2d 800 (2003).

Affirmed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Douglas B. Shapiro

[1] A knife is a dangerous weapon. MCL 750.110a(1)(b)(*ii*).