STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 18, 2012
v	No. 304479 Genesee Circuit Court
STEVEN RAY JEFFRIES, Defendant-Appellant.	LC No. 10-027739-FH

Before: FORT HOOD, P.J., and METER and MURRAY, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of unlawfully driving away an automobile (UDAA), MCL 750.413. Defendant was sentenced to 24 months of probation with the first 180 days in jail. We affirm.

Defendant contends that the prosecution presented insufficient evidence to prove all elements of UDAA because the prosecution lacked sufficient evidence to prove he had the specific intent to commit the crime and that he actually possessed the vehicle.

When reviewing a claim of sufficiency of the evidence, this Court reviews the evidence de novo in the light most favorable to the prosecution. *People v Lockett*, 295 Mich App 165, 180; 814 NW2d 295 (2012). This Court must "determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *Id*. (quotations and citation omitted). Additionally, "[t]he evidence is sufficient to convict a defendant when a rational factfinder could determine that the prosecution proved every element of the crimes charged beyond a reasonable doubt." *People v Cain*, 238 Mich App 95, 117; 605 NW2d 28 (1999).

The elements of UDAA are: "(1) possession of a vehicle, (2) driving the vehicle away, (3) that the act is done willfully, and (4) the possession and driving away must be done without authority or permission." *People v Hendricks*, 200 Mich App 68, 71; 503 NW2d 689 (1993), aff'd 446 Mich 435 (1994); see also MCL 750.413. However, MCL 750.413 does not require that the vehicle only be driven away; instead, the statute states that the requirements of UDAA are met if a defendant "drive[s] or take[s] away" a vehicle. MCL 750.413. Furthermore, UDAA "does not require an intent to steal, that is, to permanently deprive the owner of his property." *Hendricks*, 200 Mich App at 71.

Defendant argues that the prosecution did not offer sufficient evidence to prove that he had the specific intent to "willfully" take Daniel Bridges's 1998 Lincoln Navigator from the driveway of his home. In *People v Lerma*, 66 Mich App 566, 569-570; 239 NW2d 424 (1976), this Court held that UDAA is a specific intent crime requiring defendants to "subjectively desire or know that the prohibited result will occur[.]" The statute does not define "willfully," but this Court interpreted MCL 750.413 and held that "willfully," "when used in a criminal context, implies a knowledge and a purpose to do wrong." *Id.* at 570. Thus, in order to prove this element, the prosecution was required to show that defendant had the intent to unlawfully take Bridges's Navigator, an intent that can be inferred from a defendant's actions and the evidence presented. See *People v Ericksen*, 288 Mich App 192, 196; 793 NW2d 120 (2010).

Based on the trial testimony, a rational juror could have concluded, beyond a reasonable doubt, that defendant "willfully" took the Navigator when he towed it from Bridges's driveway by placing it on the bed of his tow truck. For example, defendant told Preston Morrow, a man running the counter at an auto repair and salvage shop where he dropped off the Navigator, that "he didn't think he was supposed to drop off the Navigator." A rational juror could have concluded that defendant's statement showed that he knew his actions were wrong and that he had an unlawful intent when he took the Navigator.

Furthermore, the prosecution offered evidence that Bridges's neighbor watched defendant back the Navigator into a tree as the vehicle dangled over the edge of his tow truck. If defendant lawfully towed the vehicle, it is doubtful that he would have backed the vehicle into a tree at least two times, damaging the Navigator. A rational juror, when viewing the evidence in the light most favorable to the prosecution, could have concluded that defendant either acted in haste when he took the Navigator to avoid being caught or did not care about the condition of the vehicle because he intended to scrap the Navigator. Based on this evidence, a rational juror could have inferred that defendant had the intent to unlawfully take the Navigator.

The prosecution offered additional evidence that was sufficient to prove defendant had the requisite intent to commit UDAA. Defendant told police officers that he had no knowledge of where the street was where the house and Navigator were taken from even though it was only a few miles from his home and he specifically drove there to collect the Navigator. When asked if he towed the Navigator, defendant lied to the police and said he did not tow a Navigator even though two eyewitnesses watched him tow the vehicle. In fact, defendant told Morrow that he was the tow truck driver who dropped off the Navigator. These lies to police officers could rationally be viewed as evidence of defendant covering up actions that he knew were unlawful. All this testimony provided sufficient evidence for a rational juror to infer that defendant possessed the Navigator with the requisite intent to commit UDAA.

Defendant also argues that insufficient evidence existed proving he took "possession" of the Navigator. Once again, MCL 750.413 does not define "possession." However, all undefined statutory terms are accorded their plain and ordinary meaning. *People v Al-Saiegh*, 244 Mich App 391, 398; 625 NW2d 419 (2001). "In discerning the meaning of these [undefined] terms, it is proper to consult dictionary definitions." *Id.*

The dictionary defines "possession" as "actual holding or occupancy, either with or without rights of ownership." *Random House Webster's College Dictionary* (1997). When

viewed in a light most favorable to the prosecution, a rational juror could have concluded that defendant possessed the Navigator. Evidence was offered at trial that two eye witnesses, who identified defendant's tow truck, witnessed the Navigator sitting in the back of the tow truck as it was driven away from Bridges's driveway. Additionally, defendant admitted that he towed the vehicle. Thus, a rational juror could have determined that when defendant held the Navigator on his flatbed truck and towed it, he possessed it.

Defendant also generally argues on appeal that the evidence presented at trial was insufficient to prove the remaining two elements of UDAA: (1) driving or taking the vehicle away and (2) the possession and driving away must be done without authority or permission. However, because defendant admitted to towing the vehicle and witnesses watched his tow truck move the vehicle, a rational juror could have concluded that defendant took the Navigator away. Additionally, at trial Bridges testified that he never gave permission to defendant to take his vehicle away, nor was any evidence offered that anyone gave defendant permission to take away the vehicle. Thus, when viewed in the light most favorable to the prosecution, a rational juror could have concluded that defendant had no permission to take the Navigator.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Patrick M. Meter
/s/ Christopher M. Murray