Court of Appeals, State of Michigan

ORDER

People of MI v Aaron Love

Docket No.   313014

LC No.   11-004222-AR

Michael J. Riordan
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the October 5, 2012, order of the Wayne Circuit Court affirming the district court's order of dismissal hereby is REVERSED.

Circumstantial evidence, coupled with the reasonable inferences derived therein, may support a bindover. *People v Grayer*, 235 Mich App 737, 744 n 3; 599 NW2d 527 (1999). The prosecution is not required at that point to prove the elements of the crime beyond a reasonable doubt. *Id*. Testimony at the preliminary examination established that, within minutes of a home invasion, defendant was found near the stolen property, which had been stashed about one-half of a block from the home. The tread of defendant's shoes matched fresh footprints found in the snow behind the home. He was wearing clothing similar to that of one of three people who fled when the police officers arrived at the scene. That evidence, although circumstantial, was sufficient to create reasonable inferences to show probable cause for a reasonable person to believe that the felony of second-degree home invasion was committed and that defendant committed that felony. To the extent that the record contains conflicting evidence regarding the identification of defendant as the perpetrator, where credible evidence exists to support and negate the elements of a crime, a jury must decide the resulting questions of fact. *People v Goecke*, 457 Mich 442, 469-470; 579 NW2d 868 (1998). Accordingly, the district court erred in declining to bind over defendant on the charge.

The case is REMANDED for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.

A true copy entered and certified by Angela P. DiSessa, Acting Chief Clerk, on

MAY 3 1 2013

Date

Acting Chief Clerk