

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FREEZEL JONES,

Defendant-Appellant.

UNPUBLISHED

May 17, 1996

No. 166972

LC No. 93-001112

Before: Jansen, P.J., and McDonald and D. C. Kolenda,* JJ.

PER CURIAM.

Defendant appeals as of right from his May 18, 1993, bench trial conviction of receiving and concealing stolen property over \$100, MCL 750.535; MSA 28.803, and his guilty-plea conviction of habitual offender, fourth offense, MCL 769.12; MSA 28.1084 claiming the prosecution presented insufficient evidence to support his conviction. We agree and reverse.

When reviewing a claim of insufficient evidence following a bench trial, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221; 380 NW2d 11 (1985). Furthermore, the prosecution's burden of proving all the elements of the crime charged beyond a reasonable doubt can be satisfied through the introduction of circumstantial evidence, and reasonable inferences therefrom, alone. *People v Chandler*, 201 Mich App 611; 506 NW2d 882 (1993). Inferences, however, must raise more than a possibility, and cannot be based on speculative or uncertain evidence. *People v Fisher*, 193 Mich App 284; 483 NW2d 452 (1992). The elements of receiving and concealing stolen property over \$100 are "(1) that the property was stolen; (2) the value of the property; (3) the receiving, possessing or concealment of such property by the defendant with knowledge of the defendant that the property was stolen; (4) the identity of the property as being that previously stolen; and (5) the guilty constructive or actual knowledge of the defendant that the property received or concealed had been stolen." *People v Ainsworth*, 197 Mich App 321; 495 NW2d 177 (1992). Defendant asserts , and we agree, that the

* Circuit judge, sitting on the Court of Appeals by assignment.

evidence did not establish he knew the car was stolen when he purchased it. Guilty knowledge must be present when the defendant receives the stolen property. *People v Salata*, 79 Mich App 415; 262 NW2d 844 (1977). Guilty knowledge is normally not proven by direct evidence, but is rather inferred from circumstantial evidence. *Ainsworth, supra*. It is clear that possession alone is insufficient to support a finding of guilty knowledge, and that additional evidence must be present. *People v Wolak*, 110 Mich App 628; 313 NW2d 174 (1981). Here we find no supporting additional evidence. There was a lengthy time span between the date the vehicle was stolen and the date defendant was found in possession of the vehicle; there was very little change in the condition of the vehicle; defendant has a reasonable explanation for his possession of the vehicle; and the price he paid for the vehicle was not out of line with the article's value. See *Salata, supra*.

Defendant's conviction is vacated and defendant is ordered discharged from custody.

/s/ Kathleen Jansen

/s/ Gary R. McDonald

/s/ Dennis C. Kolenda