

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARY DUANE GOODWIN,

Defendant-Appellant.

UNPUBLISHED

June 28, 1996

No. 181725

LC No. 94-006072

Before: Hood, P.J., and Markman and A. T. Davis, Jr.*, JJ.

MEMORANDUM.

Defendant was convicted in a bench trial of larceny of property over \$100, MCL 750. 356; MSA 28. 588 and sentenced to two years probation. He appeals as of right. We affirm.

Defendant argues that the prosecution failed to prove that the value of the property taken was over \$100. Specifically, defendant argues that complainant's testimony alone does not prove the value of the hubcaps. Defendant stole four hubcaps from complainant. Complainant testified that the hubcaps cost either \$125.50 or \$129.50 each. Complainant was quoted this price when she sought to replace the hubcaps a few months before they were stolen. Complainant noted on the record that she had a bill at home.

The value of the items stolen, when used to differentiate between a felony a misdemeanor offense is an essential element of the charged crime. *People v Johnson*, 133 Mich App 150, 153; 348 NW2d 716 (1984). Fair market value may be used as the relevant standard for value when such a value exists. *Id.* The owner of an item is competent to testify about the value of that item where the owner has priced that item. *Printz v People*, 42 Mich 144, 145; 3 NW 306 (1979). The issue of value can then be submitted to the trier of fact. *Kavanagh v St. Paul Fire & Marine Ins Co*, 244 Mich 391, 394; 221 NW 119 (1928). Questions of credibility should be left to the trier of fact to resolve. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). Complainant's

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

testimony was competent to prove the value of the hubcaps. Complainant was testifying to the fair market value of the hubcaps. The trier of fact found complainant's testimony to be credible. In addition, defendant stole four hubcaps. The prosecution proved that the value of the property taken was over \$100.

Affirmed.

/s/ Harold Hood

/s/ Stephen J. Markman

/s/ Alton T. Davis, Jr.