

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMIE HURLING,

Defendant-Appellant.

UNPUBLISHED

June 28, 1996

No. 183465

LC No. 94-010709

Before: Young, P.J., and Corrigan, and M.J. Callahan,* JJ.

MEMORANDUM.

Defendant appeals of right from his bench trial conviction of breaking and entering, MCL 750.110; MSA 28.305. He was sentenced to a two- to ten-year term of imprisonment. We affirm.

Defendant argues that the evidence was insufficient to establish that he was guilty of breaking and entering an unoccupied dwelling with intent to commit larceny. This Court disagrees. In reviewing the sufficiency of evidence, this Court must view the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v McMillan*, 213 Mich App 134, 139; 539 NW2d 553 (1995). The elements of breaking and entering are: (1) defendant broke into a building; (2) defendant entered the building; and (3) at the time of the breaking and entering, the defendant intended to commit a larceny or felony therein. *People v Ferguson*, 208 Mich App 508, 511; 528 NW2d 825 (1995).

In this case, eyewitnesses identified defendant. The eyewitnesses testified that they first saw a flashlight beam moving around in an unattached garage at 1:30 a.m. The eyewitnesses next saw a person duck out from under the garage door, which was later found to be damaged. The eyewitnesses then saw the person pushing a lawn mower down the street and loading it into the trunk of a waiting car. One eyewitness saw the person then enter the passenger side of the car. She further testified that someone else was in the driver's seat. Police authorities immediately apprehended defendant as the passenger in the car containing the lawn mower.

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

Viewing the evidence in a light most favorable to the prosecution, we conclude that sufficient evidence from which the trier of fact could find beyond a reasonable doubt that defendant broke and entered a building, intending to commit a larceny therein. *People v McMillan, supra.*

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Maura D. Corrigan

/s/ Michael J. Callahan