

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN RICHARD REID,

Defendant-Appellant.

UNPUBLISHED

July 23, 1996

No. 188520

LC No. 95-004619

Before: Doctoroff, C.J., and Wahls and Smolenski, JJ.

PER CURIAM.

This appeal follows defendant's conditional plea of no contest to a charge of attempted failure to stop at a serious personal injury accident, MCL 257.617; MSA 9.2317. Defendant was sentenced to 120 days of jail time and one year of probation, plus fines and costs. The sentence was stayed pending this appeal. On appeal, defendant contends that the statute is unconstitutionally vague, and therefore void. He also argues that the trial court improperly created definitions for undefined statutory terms. We affirm.

MCL 257.617; MSA 9.2317 makes it a felony for an individual to fail to stop when involved in a personal injury accident in which there was a "serious or aggravated injury." Defendant argues that the statute is void for vagueness because the act does not define what constitutes a "serious or aggravated injury." We disagree.

Statutes carry a strong presumption of constitutionality. *People v White*, 212 Mich App 298, 309; 536 NW2d 876 (1995). A statute can be found unconstitutionally vague if it fails to provide fair notice of the proscribed conduct, or if "it is so indefinite that it confers unstructured and unlimited discretion on the trier of fact to determine whether an offense has been committed." *People v Heim*, 206 Mich App 439, 441; 522 NW2d 675 (1994). In this case, the statutory language regarding a "serious or aggravated injury" serves only to increase the crime from a misdemeanor to a felony. Compare MCL 257.617; MSA 9.2317 and MCL 257.617a; MSA 9.2317a. However, in *all* cases in which *any* injury occurs the driver is required to remain at the scene of an accident. MCL 257.617a;

MSA 9.2317a. A challenged statute must be construed with reference to the entire act to determine whether the requisite certainty exists. *People v Hayes*, 421 Mich 271, 284 (1984). It is clear from a reading of the entire statutory scheme that defendant was on notice that leaving the scene of an accident in which an injury occurred was prohibited. Accordingly, defendant's argument that he was not on notice that his conduct was proscribed fails.

Furthermore, in an aggravated assault case, this Court held that a jury could decide whether the element of a "serious or aggravated injury" was supported by sufficient evidence. *People v Brown*, 97 Mich App 606, 611; 296 NW2d 121 (1980). This authority supports the trial court's conclusion that the undefined statutory language was not unconstitutionally vague; the precise meanings of the terms could be properly determined by the finder of fact. We thus hold that defendant failed to overcome the strong presumption that the statute is constitutional. *White, supra*.

Finally, defendant argues that the trial court impermissibly supplied definitions to the terms "serious and aggravated injury." We disagree. The trial court, in fashioning the definition to the terms, considered the definition this Court had apparently found acceptable in *Brown, supra*. The definition gave defendant a clear understanding of what the prosecutor would be required to prove, thus allowing defendant to present his defense to the charges. Accordingly, the trial court's construction of the statute was proper, and defendant's conviction is upheld.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Myron H. Wahls
/s/ Michael R. Smolenski