

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL R. LEONE,

Defendant-Appellant.

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UNPUBLISHED  
October 18, 1996

No. 180603  
LC No. 94-132852-FH

Before: Saad, P.J., and Holbrook, Jr., and G. S. Buth,\* JJ.

MEMORANDUM.

Defendant was convicted by a jury of breaking and entering an occupied dwelling with the intent to commit larceny, MCL 750.110; MSA 28.305, and he subsequently pleaded guilty of being an habitual offender, fourth offense, MCL 769.12; MSA 28.1084. He appeals as of right, claiming that insufficient evidence was presented at trial to support his breaking and entering conviction. We affirm.

In determining whether sufficient evidence has been presented to sustain a conviction, this Court is required to view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). The elements of breaking and entering an occupied dwelling are: 1) breaking and 2) entering 3) an occupied dwelling 4) with felonious intent. *People v Ferguson*, 208 Mich App 508, 511; 528 NW2d 825 (1995). On appeal, defendant challenges only the sufficiency of the evidence as to the first element.

To satisfy the breaking element, a showing of only slight force is necessary, such as the opening of a partly opened door. *People v Finney*, 113 Mich App 638, 639; 318 NW2d 579 (1982). The force used to break in must be unauthorized. *People v Rider*, 411 Mich 496, 498; 307 NW2d 690 (1981). Here, defendant was seen opening the complainant's front door and entering his home on April 15, 1994. Defendant's companion, whom defendant claimed had keys and whom defendant said had told him she had lived with the complainant, only held open the screen door. The complainant testified

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

that his doors were closed on the day in question. The complainant also testified that he did not know defendant and had not given him permission to enter his home, facts that defendant conceded in his own testimony. Accordingly, viewing the evidence in the light most favorable to the prosecution, we find that sufficient evidence was presented to support defendant's conviction.

Affirmed.

/s/ Henry W. Saad

/s/ Donald E. Holbrook, Jr.

/s/ George S. Buth