

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES ANDERSON,

Defendant-Appellant.

UNPUBLISHED
October 25, 1996

No. 182226
LC No. 94-003260

Before: Reilly, P.J., and Cavanagh, and R.C. Anderson,* JJ.

PER CURIAM.

Defendant was convicted by a jury of breaking and entering an occupied dwelling with intent to commit larceny, MCL 750.110; MSA 28.305, and subsequently pleaded guilty to being an habitual offender, fourth offense, MCL 769.12; MSA 28.1084. He was sentenced to seven years, six months to fifteen years in prison. He now appeals as of right, and we affirm.

Defendant contends that he is entitled to a new trial by virtue of the trial court's erroneous dismissal of a qualified prospective juror. We agree that the trial court erred in dismissing a prospective juror for cause pursuant to MCR 2.511(D)(2). Assignment to youthful trainee status under the Holmes Youthful Trainee Act, MCL 762.11 *et seq.*; MSA 28.853(11) *et seq.* does not constitute conviction for a crime. MCL 762.12; MSA 28.853(14); *People v Poindexter*, 138 Mich App 322, 330; 361 NW2d 346 (1984). Defendant abandoned this issue, however, by failing to cite authority in support of the proposition that the erroneous dismissal for cause of a qualified juror is reversible error. *People v Piotrowski*, 211 Mich App 527, 530; 536 NW2d 293 (1995). Regardless, a new trial is not warranted on these facts. There is nothing in the record indicating that defendant was prejudiced by the dismissal of the prospective juror. See *Luebe v Thorpe*, 94 Mich 268; 54 NW 41 (1892); *Brennan v O'Brien*, 121 Mich 491, 497; 80 NW 249 (1899). Moreover, the trial court has discretion to excuse a prospective juror even if that juror does not fall within the categories enumerated in MCR 2.511(D). *People v Walker*, 162 Mich App 60, 64; 412 NW2d 244 (1987). In light of the fact that MCR

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

2.511(D)(2) was enacted to ensure that all jurors possess good moral character, *Froede v Holland*, 207 Mich App 127, 131-132; 523 NW2d 849 (1994), quoting 3 Martin, Dean & Webster, Michigan Court Rules Practice, p 176, n 5, it would not have been an abuse of discretion had the trial court justified the dismissal of the prospective juror on policy grounds. This Court will not reverse where the trial court reaches the right result for the wrong reason. *People v Brake*, 208 Mich App 233, 242 n 2; 527 NW2d 56 (1994).

We also find that the jury's verdict was supported by sufficient evidence. The elements of this crime 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). In this case, the complainant testified that she observed defendant coming down the steps leading to the front door of her house. After following defendant for several blocks, she alerted a police officer and defendant was arrested. When the complainant returned home, she noticed that her front door had been damaged and her house was in disarray. One five-dollar bill and three one-dollar bills had been taken from her wallet. In addition, the complainant was missing a large amount of change. Upon his arrest, defendant had in his possession currency in the exact denominations missing from the complainant's wallet, as well as six quarters. More change was confiscated from defendant after he was placed in a detention cell. In reviewing a challenge to the sufficiency of the evidence, circumstantial evidence and reasonable inferences arising from the evidence may constitute satisfactory proof of the elements of the offense. *People v Greenwood*, 209 Mich App 470, 472; 531 NW2d 771 (1995). Viewed in a light most favorable to the prosecution, we believe the evidence was sufficient to allow a rational finder of fact to find that the essential elements of breaking and entering were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994).

Finally, we conclude that the trial court did not abuse its discretion in denying defendant's motion for a new trial or an evidentiary hearing based on juror misconduct. Defendant attached two affidavits from attorneys who were told by two jurors that they "changed their minds and agreed to a guilty verdict only because the Defendant failed to take the stand and testify." After a jury has been discharged, oral testimony or affidavits may only be received on extraneous or outside errors or to correct clerical errors in matters of form. *Hoffman v Spartan Stores, Inc.*, 197 Mich App 289, 293; 494 NW2d 811 (1992). We do not agree with defendant that the jurors' consideration of his failure to testify in their decision to convict him indicates a bias that can be characterized as an extraneous influence. Rather, the issue concerns the jurors' thought processes, and therefore, falls within the rule that precludes challenges to misconduct inherent in the verdict. *Id.*

Affirmed.

/s/ Maureen Pulte Reilly

/s/ Mark J. Cavanagh

/s/ Robert C. Anderson