

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES COLEMAN,

Defendant-Appellant.

UNPUBLISHED

November 22, 1996

No. 186973

LC No. 94-008932

Before: Holbrook, Jr., P.J., and White and S.J. Latreille,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of entering without breaking, MCL 750.111; MSA 28.306. He was sentenced to serve an enhanced sentence of three years probation as a result of his conviction as an habitual offender, third offense, MCL 769.11; MSA 28.1083. We affirm.

Defendant argues that there was insufficient evidence to support his conviction. We disagree. In determining whether the evidence presented at trial was sufficient to sustain a conviction, this Court, viewing the evidence presented in a light most favorable to the prosecution, must determine whether a rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

Conviction for the crime of entering without breaking requires that the prosecution prove: (1) entry of a building, (2) without breaking, and (3) with an intent to commit a felony or any larceny therein. MCL 750.111; MSA 28.306. Larceny is defined as the nonconsensual taking of the goods or property of another with felonious intent. *People v Goodchild*, 68 Mich App 226, 232; 242 NW2d 465 (1976). Moreover, both intent and lack of consensual entry may be established by inference from facts in evidence. *People v Atley*, 392 Mich 298, 315; 220 NW2d 465 (1974).

Here, Detroit police officer Joseph Duncan observed defendant inside the Faygo building, handing cases of Faygo soda pop over a gate to persons who, in turn, placed the merchandise in a

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

waiting vehicle. The trial court found that the property was taken from the building without the consent of the owner. Accordingly, viewing the evidence in a light most favorable to the prosecution, sufficient evidence was presented to support defendant's conviction.

Defendant also argues that the facts do not support entering without breaking because the trial court found the value of the property stolen to be less than one hundred dollars. We again disagree. A person may be convicted of entering without breaking where the offense is committed "with intent to commit a felony or *any* larceny therein." MCL 750.111; MSA 28.306 (emphasis added). Michigan's larceny statute, MCL 750.356; MSA 28.588, does not limit the crime of larceny to thefts in excess of one hundred dollars.

Finally, the trial court's findings of fact were not clearly erroneous as there exists record evidence to support the findings. MCR 2.613(C); *In re Forfeiture of Bail Bond*, 209 Mich App 540, 550; 531 NW2d 806 (1995).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ Stanley J. Latreille