STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARY LEE LAKE,

Defendant-Appellant.

UNPUBLISHED
December 20, 1996

No. 178556
LC No. 93-000145-FH
94-000011-FH

Before: Sawyer, P.J., and Griffin and M.G. Harrison,* JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of breaking and entering an occupied dwelling, MCL 750.110; MSA 28.305, and subornation of perjury, MCL 750.424; MSA 28.666. He thereafter pled guilty to being a habitual offender (fourth offense). MCL 769.12; MSA 28.1082. He was sentenced to consecutive terms of ten to twenty years in prison. He now appeals and we affirm.

Defendant first argues that the trial court erred in joining the two cases for trial over his objection. We disagree. Under MCR 6.120(B), the court must sever unrelated offenses for separate trials upon the defendant's request. Offenses are considered related if they are based on the same conduct or are a series of connected acts or acts constituting part of a single plan or scheme. *Id*. Because the subornation of perjury charge arose out of defendant's attempt to get a witness to commit perjury at the preliminary examination on the breaking and entering charge, the two crimes constitute a series of connected acts under MCR 6.120(B)(2). Therefore, the trial court properly joined the cases for trial. Cf. *United States v Jamar*, 561 F2d 1103 (CA 4, 1977) (perjury committed at a preliminary hearing logically and intimately connected to the underlying offense so that joinder of the offense is permissible).

Next, defendant argues that the trial court improperly allowed a police officer to testify that the description of a vehicle received from a witness matched the vehicle in which defendant was arrested. We disagree. The officer did not testify as to the content of the statement, only that the statement was

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

made and the fact that he passed a similar vehicle on his way to the crime scene. Accordingly, the statement did not constitute hearsay. See *People v Fisher*, 449 Mich 441, 450; 537 NW2d 577 (1995), *People v Sanford*, 402 Mich 460, 491; 265 NW2d 1 (1978), and *People v Harris*, 201 Mich App 147, 151; 505 NW2d 889 (1993).

Defendant next argues that the trial court erred in denying his motion for a directed verdict. We disagree. In reviewing this issue, we look at the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find each element of the offense proven beyond a reasonable doubt. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993). Defendant argues that there was insufficient evidence to establish his involvement in the crime. However, his vehicle was observed in the area of the crime, he made statements to the police concerning the method of entry into the home, his alibi witnesses had made inconsistent statements concerning defendant's being with her, and another witness had observed defendant driving his car up and down the street and then parking near the victim's house at a time the alibi witness said defendant was with her. In light of this evidence, a rational trier of fact could conclude that the prosecutor had proven defendant's involvement in the offense.

Defendant's next argument is that the trial court erred by failing to articulate the reasons for imposing the sentence for suborning perjury. We disagree. While the trial court's statements may have been somewhat brief and general, they adequately explained the reasons for the sentence imposed.

Next, defendant argues that the sentences imposed are disproportionate. We disagree. In light of the nature of these offenses and defendant's criminal history, we are satisfied that the sentences imposed are proportionate. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Finally, defendant argues that the trial court abused its discretion in imposing consecutive sentences. We disagree. The trial court was authorized by statute, MCL 768.7b; MSA 28.1030(2), to impose consecutive sentences. In our view, it is not an abuse of discretion to impose a consecutive sentence for subornation of perjury, particularly where that sentence is made consecutive to the sentence imposed on the offense underlying the suborned perjury.

Affirmed.

/s/ David H. Sawyer
/s/ Richard Allen Griffin
/s/ Michael G. Harrison