

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FRANK MICHAEL MACIAG,

Defendant-Appellant.

UNPUBLISHED

December 27, 1996

No. 185207

LC No. 94-004066

Before: Smolenski, P.J., and Michael J. Kelly and J.R. Weber,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of use of a motor vehicle without authority but without intent to steal, MCL, 750.414; MSA 28.646, and from his guilty plea to fourth habitual offender, MCL 769.12; MSA 28.1084. Defendant was sentenced to one to two years' imprisonment for the unlawful use of a motor vehicle conviction. However, that sentence was vacated and defendant was sentenced to two to five years' imprisonment for the fourth habitual offender conviction, to run concurrent with a parole sentence. We affirm.

Defendant argues that the evidence presented at trial was insufficient to convict him of unlawful use of a motor vehicle. When reviewing the sufficiency of the evidence in a criminal case, this Court must view the evidence in the light most favorable to the prosecution and 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, amended 441 Mich 1201; ___ NW2d ___ (1992).

The elements of unlawful use of a motor vehicle are (1) the vehicle must have belonged to another, (2) the defendant must have taken or used the vehicle, (3) the taking or use must have been without authority, and (4) the defendant must have intended to take or use the vehicle, knowing he had no authority to do so. *People v Crosby*, 82 Mich App 1, 2-3; 266 NW2d 465 (1978). Defendant contends that the prosecution failed to prove that defendant possessed the requisite intent. Specifically, defendant argues that the prosecution is required to prove both a specific intent to exceed authority, and

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

knowledge of a lack of such authority. We disagree with this dual characterization of the intent element. Unlawful use of a motor vehicle is a general intent crime. *People v Laur*, 128 Mich App 453, 455; 340 NW2d 655 (1983). The prosecution need only prove that defendant intended to take or use the vehicle knowing his use exceeded the authority granted to him. The knowledge requirement constitutes the *mens rea* of the offense, and reflects the general criminal intent required for most crimes. *Id.* at 456.

Viewed in the light most favorable to the prosecution, the evidence is sufficient to prove beyond a reasonable doubt that defendant knew his use of the car exceed the authority granted to him. Defendant knew that the car was owned by Bobbie Jewell and that she did not approve of his use of the car. In the early morning hours of March 29, 1994, defendant knew that Dreama wanted to take the car and leave, but he physically prevented her from doing so by grabbing the keys from Dreama and saying, “Bitch, you’re not going anywhere.” Defendant kept the keys away from Dreama’s possession from that point on, and also kept her away from her purse. Defendant further overcame Dreama’s will to leave by beating her face and threatening her with kitchen knives. In the morning, defendant instructed Dreama to go into the bathroom and take a bath. Then, over her specific request that he wait until she was ready, defendant took the car without asking for her permission. Finally, defendant made no attempt to contact Dreama or Bobbie over the three day period in which he had the car before he was arrested. Upon these facts, a rational trier of fact could conclude (1) that defendant physically and emotionally coerced Dreama into believing that it was in her best interest to cooperate with him, (2) that he took these measures because he knew that, absent such action, Dreama would leave, and (3) that if defendant knew Dreama wanted to leave, he certainly should have known that taking her car for three days was an unauthorized use. Therefore, we hold that the prosecution presented sufficient evidence of knowledge to convict defendant of unlawful use of a motor vehicle. *Wolfe, supra*, 440 Mich 515.

Affirmed.

/s/ Michael R. Smolenski

/s/ Michael J. Kelly

/s/ John R. Weber