

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEWIS JAMES WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

January 28, 1997

No. 186818

Recorder's Court

LC No. 94-012789

Before: Doctoroff, P. J. and Hood and P. J. Sullivan,* JJ.

PER CURIAM.

Defendant, Lewis James Williams, appeals as of right his bench trial convictions of operating a chop shop, MCL 750.535a; MSA 28.803(1), and three counts of receiving and concealing stolen property, MCL 750.535; MSA 28.803. We affirm in part and reverse in part.

Defendant argues on appeal that there was insufficient evidence to support his convictions. We disagree. Before we reach the issue of whether there was sufficient evidence to convict defendant, however, we note, *sua sponte*, that defendant's constitutional right against multiple convictions under the Double Jeopardy Clauses, US Const, Am V; Const 1963, art 1, § 15, was violated. Although defendant has not raised the issue on appeal, we will address it because a significant constitutional right is involved. We have previously determined that convictions for the possession of stolen property and operating a chop shop arising out of the same act or transaction violate a defendant's double jeopardy protection against multiple punishment. *People v Allay*, 171 Mich App 602, 606; 430 NW2d 794 (1988); *People v Oxendine*, 201 Mich App 372, 374; 506 NW2d 885 (1993). Accordingly, we vacate the convictions and sentences for receiving and concealing stolen property.

The remaining issue for resolution is, therefore, whether there was sufficient evidence to convict defendant of operating of chop shop. Under Michigan law, a person is guilty of operating a chop shop if he "knowingly owns, operates, or conducts a chop shop or [] knowingly aids or abets

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

another person in owning, operating, or conducting a chop shop.” MCL 750.535a(2); MSA 28.803(1)(b). A “chop shop” is defined as:

[A]ny area, building, storage lot, field, or any other premises or place where 1 or more persons are engaged in any way concealing or disguising the identity of a stolen motor vehicle or of any major component part of a stolen motor vehicle; or any area, building, storage lot, field, or any other premises or place where there are 3 or more stolen motor vehicles present or where there are major component parts from 3 or more stolen motor vehicles present. [MCL 750.535a(1)(b); MSA 28.803(1)(a)(2).]

In the instant case, there is clear evidence that there was a chop shop. As stated above, a chop shop exists where there are three or more stolen motor vehicles present. MCL 750.535a(1)(b); MSA 28.803(1)(a)(2). It was undisputed that the police found three stolen Mustangs at the location in question. The next critical element, that defendant knowingly owned, operated, and conducted a chop shop at the location, can be inferred from the facts. Defendant’s parole officer testified that both defendant and defendant’s girlfriend told her that defendant was living at the location in question. Police officers found three stolen Mustangs in various stages of disassembly on the property. In addition, numerous car parts were found in and around the house. It is reasonable to assume that since defendant lived at the house where multiple stolen cars and numerous car parts were found, defendant knowingly owned or operated a chop shop at that location. Therefore, there was sufficient evidence to establish defendant’s conviction of operating a chop shop.

Affirmed in part and reversed in part. No resentencing is necessary in view of defendant's concurrent sentence.

/s/ Martin M. Doctoroff

/s/ Harold Hood

/s/ Paul J. Sullivan