

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE CHEVEZ MILLS,

Defendant-Appellant.

UNPUBLISHED

February 13, 1998

No. 197420

Muskegon Circuit Court

LC No. 96-139213 FH

Before: Markey, P.J., and Doctoroff and Smolenski, JJ.

MEMORANDUM.

Following his jury conviction for second-degree home invasion, MCL 750.110a; MSA 28.305(a), and adjudication as a fourth-felony offender, MCL 769.12; MSA 28.1084, for which he received an enhanced sentence of five to fifteen years' imprisonment, defendant appeals by right. He contends that the evidence at trial was insufficient to furnish a proper basis for his conviction.

The corpus delicti of the crime is uncontested: a person or persons unknown broke into and entered the victim's dwelling and stole various items. The prosecution's theory of the case was that defendant aided and abetted the two actual burglars by providing transportation services. Defendant admitted driving the burglars to the scene, but in his statement to police and testimony at trial asserted that he lacked the requisite knowledge regarding his confederates' unlawful plans and the intent to further any such illegal design. He correctly contends that without such knowledge and intent, he cannot be convicted on an aiding and abetting theory. *People v Davenport*, 122 Mich App 159, 163-164; 332 NW2d 443 (1982); *People v Triplett*, 105 Mich App 182, 188; 306 NW2d 442 (1981), remanded 414 Mich 898 (1982).

In determining whether the evidence was sufficient to permit a rational trier of fact to determine that defendant's guilt was proven beyond a reasonable doubt, the evidence is viewed in a light most favorable to the prosecution. *People v Hampton*, 407 Mich 354, 366; 285 NW2d 284 (1979). Here, the proof was sufficient because an inculpatory inference can reasonably be drawn by a jury from the facts admitted by defendant, even if an exculpatory inference might also be drawn and defendant asserts the latter is the correct inference. *Guilty Plea Cases*, 395 Mich 96, 130; 235 NW2d 132

(1975). The jury was not required to accept defendant's contrary protestations, and could accept or reject all or any part of his testimony. See *People v Jackson*, 390 Mich 621, 625 n 2; 212 NW2d 918 (1973).

Affirmed.

/s/ Jane E. Markey

/s/ Martin M. Doctoroff

/s/ Michael R. Smolenski