

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK HARRIS,

Defendant-Appellant.

UNPUBLISHED

August 11, 2000

No. 214711

Wayne Circuit Court

LC No. 98-001988

Before: Murphy, P.J., and Kelly and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right from his conviction following a bench trial of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues on appeal that insufficient evidence was presented from which the trier of fact could find that defendant entered the home with the specific intent to commit a larceny. We disagree. The prosecution had the burden of proving that defendant had the specific intent to commit a larceny at the time he broke and entered the complainant's house. A presumption of an intent to steal does not arise solely from proof of a breaking and entering. *People v Palmer*, 42 Mich App 549, 552; 202 NW2d 536 (1972). However, because of the acknowledged difficulty in proving an actor's state of mind, minimal circumstantial evidence establishing that a defendant intended to steal at the time he broke and entered a home is sufficient to sustain a finding that he had the requisite intent. *People v Bowers*, 136 Mich App 284; 356 NW2d 618 (1984); *People v Noel*, 123 Mich App 478, 484; 332 NW2d 578 (1983); *People v Grabowski*, 12 Mich App 672, 676-677; 163 NW2d 449 (1968). The factors from which the trier of fact could reasonably infer defendant's intent to commit a larceny included his suspicious, furtive conduct in looking around while in a crouched position facing the street, the ten minutes he spent inside the house, and his flight from the scene. *Bowers, supra* at 297-298. Accordingly, viewing the evidence in a light

most favorable to the prosecution, a rational trier of fact could have found that the minimal threshold to establish an intent to commit a larceny was met.

Affirmed.

/s/ William B. Murphy
/s/ Michael J. Kelly
/s/ Michael J. Talbot