

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
June 19, 2012

v

WALTER CURTIS CARPENTER,
Defendant-Appellant.

No. 304133
Saginaw Circuit Court
LC No. 09-033301-FH

Before: BECKERING, P.J., and FITZGERALD and STEPHENS, JJ.

PER CURIAM.

Defendant was charged with first-degree home invasion, MCL 750.110a(2). A jury convicted defendant of the lesser offense of entering without permission, MCL 750.115(1), and the trial court sentenced defendant as a fourth-offense offender, MCL 769.12, to 24 months' probation. Defendant appeals as of right. We affirm.

Defendant argues that there was insufficient evidence to sustain his conviction of entering without permission. In reviewing the sufficiency of the evidence, this Court must review the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 399, 400; 614 NW2d 78 (2000). We must draw all reasonable inferences and make credibility choices in support of the jury verdict. *Id.* at 400. Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime. *Id.*

The elements of entering without permission have been articulated as (1) entering the building (2) without the owner's permission. *People v Silver*, 466 Mich 386, 392; 646 NW2d 150 (2002). Defendant does not contest that he entered the apartment on September 17, 2009, when Victoria Ramsey refused him entry, but argues that the evidence did not support a finding that he entered the apartment without permission. We disagree.

Victoria Ramsey dated defendant intermittently from 2007 to September 2009. On April 20, 2009, Ramsey moved from defendant's house into her own apartment. Thereafter, Ramsey and defendant spent many nights at each other's homes. Ramsey denied that defendant lived

with her.¹ She explained that he did not have a key to her apartment, that he had to knock to enter her apartment, and that he was never added to the lease agreement.² Ramsey and defendant broke up in September 2009, and Ramsey allowed defendant to come to her apartment on September 17, 2009, to retrieve from the apartment some items that he had previously given to her. After retrieving his items, defendant left the apartment. Defendant later returned, knocking on Ramsey's door and window and calling her telephone. After Ramsey refused to answer the door or the telephone, defendant burst through the locked door and stated that he had forgotten to take a clothes dryer he had previously given to her. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support the jury's finding that defendant entered Ramsey's apartment without permission.

Affirmed.

/s/ Jane M. Beckering
/s/ E. Thomas Fitzgerald
/s/ Cynthia Diane Stephens

¹ Defendant's argument is premised on conflicting testimony with regard to whether defendant had lived at Ramsey's apartment during the months preceding this incident. However, issues of credibility are viewed in favor of the jury verdict in a sufficiency challenge. *People v Gonzalez*, 468 Mich 636, 640-641; 664 NW2d 159 (2003). Further, whether defendant had ever lived at or stayed at Ramsey's apartment is not relevant to the question of whether defendant had permission to enter the apartment after the parties' relationship terminated and at the time he entered Ramsey's apartment on September 17, 2009.

² A copy of the lease agreement was admitted at trial. The lease agreement listed Ramsey and her daughter as the occupants of the apartment.