

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LIONEL STOVALL,

Defendant-Appellee.

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UNPUBLISHED  
February 26, 1999

No. 208309  
Recorder's Court  
LC No. 97-005692

Before: Markman, P.J., and Bandstra and J. F. Kowalski\*, JJ.

MEMORANDUM.

The prosecutor appeals as of right from the quashing of an information charging defendant with obstruction of justice, MCL 750.505; MSA 28.773. We reverse and remand for the reinstatement of the charge. This case is being decided without oral argument pursuant to MCR 7.214(E).

A charge of obstruction of justice is warranted if the defendant's conduct would have been recognized as one of the many offenses "falling within the rubric of 'obstruction of justice' at common law." *People v Vallance*, 216 Mich App 415, 419; 548 NW2d 718 (1996), quoting *People v Thomas*, 438 Mich 448, 457-458; 475 NW2d 288 (1991). The August 22, 1997, information charged defendant with obstructing justice by interfering with or intimidating a witness to a Detroit police criminal investigation. The instant offense falls within this rubric. It was an offense at common law "to willfully and corruptly hamper, obstruct, and interfere with a proper and legitimate criminal investigation." *People v Somma*, 123 Mich App 658, 661-662; 333 NW2d 117 (1983).

The prosecutor's theory of the case is that defendant attempted to coerce a witness to provide a false statement to the police. Specifically, the prosecutor asserts that defendant attempted to coerce a witness to tell the authorities that he was not present in the bar at the time of the shooting. The prosecutor may prove his case by showing an attempt through threats and coercion to dissuade a witness from cooperating with authorities. Cf. *People v Tower*, 215 Mich App 318, 320; 544 NW2d 752 (1996). Words alone are sufficient to constitute the crime. *Id.* Where words alone are relied upon to establish the crime, the words must be "unequivocally referable" to the commission of the

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

obstruction of justice, *id.* at 321, quoting *People v Coleman*, 350 Mich 268, 278; 86 NW2d 281 (1957), and the totality of the circumstances must support a reasonable inference that the defendant intended to dissuade the witness from cooperating, *id.* at 322-323.

The trial court abused its discretion when it dismissed the obstruction of justice charge. *People v Davis*, 209 Mich App 580, 584; 531 NW2d 787 (1995). According to James Lee, defendant twice sought him out after the shooting. On both occasions, defendant made repeated attempts to convince Lee to tell authorities that defendant was not present in the bar at the time of the shooting. When Lee rebuffed defendant's attempts on both occasions, defendant indicated that "shit will happen." Lee took these statements personally. Additionally, it can be inferred from Lee's testimony that he understood defendant's statements that "shit will happen" to mean that some type of harm would befall him if he told law enforcement authorities that defendant was present in the bar. These circumstances are sufficiently strong in themselves to warrant a cautious person to believe that defendant intended to dissuade Lee from cooperating with authorities. *Tower, supra* at 320. Accordingly, defendant's intent is a question of fact to be inferred from the circumstances by the trier of fact. *Tower, supra* at 323.

Reversed and remanded for trial on the charge of obstruction of justice. We do not retain jurisdiction.

/s/ Stephen J. Markman

/s/ Richard A. Bandstra

/s/ John F. Kowalski