

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

WANDELL D. POWELL,

Defendant-Appellee.

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UNPUBLISHED

March 19, 1999

No. 210156

Oakland Circuit Court

LC No. 97-156733 FH

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

PER CURIAM.

Plaintiff appeals of right from the trial court's order granting defendant's motion to quash and dismiss. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with odometer tampering, MCL 257.233a(6); MSA 9.1933(1)(6). Evidence presented at the preliminary examination showed that in July 1997 the odometer on a car owned by defendant's grandfather and primarily driven by defendant read 72,900 miles after repairs were performed. In September 1997, the odometer read 34,084 miles. In binding defendant over as charged, the district court found that after repairs were performed, the odometer functioned and read 72,900 miles. The court concluded that the evidence supported an inference that defendant altered the odometer or allowed it to be altered.

The trial court granted defendant's motion to quash the information and dismiss the case. The court found that no evidence supported a finding that defendant or anyone else altered the odometer.

We review a trial court's decision to grant or deny a motion to quash de novo to determine if the district court abused its discretion in ordering a bindover. *People v Orzame*, 224 Mich App 551, 557; 570 NW2d 118 (1997).

MCL 257.233a(6); MSA 9.1933(1)(6) provides that a person "shall not alter, set back, or disconnect an odometer; [or] cause or allow an odometer to be altered, set back, or disconnected." Evidence presented at the preliminary examination established that when the car was taken to a repair

facility in May 1997, the odometer was inoperable. Defendant indicated that the car had approximately 70,000 miles on it. No evidence was presented regarding the reading on the internal odometer computer in May 1997; however, the evidence established that the various repairs performed on the car would not have altered that computer. Uncontradicted testimony established that after the repairs were completed in July 1997, the odometer functioned and read 72,900 miles. In September 1997, the mileage on both the internal computer and the odometer read 34,084 miles.

We reverse the trial court's decision. While at the preliminary examination stage the prosecution is not required to prove guilt beyond a reasonable doubt, *People v Hill*, 433 Mich 464, 469; 446 NW2d 140 (1989), some evidence of each element of the charged offense must be presented. *People v Reigle*, 223 Mich App 34, 37; 566 NW2d 21 (1997). Circumstantial evidence and reasonable inferences drawn from the evidence is sufficient. *People v Terry*, 224 Mich App 447, 451; 569 NW2d 641 (1997). Evidence that the repairs made between May and July 1997 would not have altered the internal odometer computer, together with defendant's own statement that the car had approximately 70,000 miles on it, supported an inference that in May 1997 the odometer read 72,900 miles. The uncontradicted evidence showing that in September 1997 the internal odometer computer and the odometer read 34,084 supported a finding that the internal odometer computer and the odometer had been altered at some time between July and September 1997. Although no direct evidence established that defendant altered the odometer, the evidence showed that defendant was the principal driver of the car, and on one occasion requested repairs on the car under his grandfather's name. This evidence supported an inference that defendant altered the odometer or allowed it to be altered. The evidence presented was sufficient for purposes of the preliminary examination. *Reigle, supra; Terry, supra.*

The trial court's order granting the motion to quash and dismiss is reversed, and this matter is remanded to the trial court for reinstatement of the case. We do not retain jurisdiction.

/s/ William B. Murphy  
/s/ Barbara B. MacKenzie  
/s/ Michael J. Talbot