

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
September 18, 2012

v

MATHEW ALAN GRIFFITH,  
Defendant-Appellant.

No. 304646  
Oakland Circuit Court  
LC No. 2010-232685-FH

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Before: CAVANAGH, P.J., and SAAD and DONOFRIO, JJ.

PER CURIAM.

Defendant appeals by leave granted his jury conviction of first-degree home invasion, MCL 750.110a(2), premised on an aiding and abetting theory, MCL 767.39. We affirm.

On appeal, defendant first argues that the prosecution failed to introduce sufficient evidence from which a rational trier of fact could conclude beyond a reasonable doubt that he possessed the requisite intent to be convicted as an aider and abettor. We disagree.

This Court reviews de novo a challenge to the sufficiency of the evidence, considering the evidence in the light most favorable to the prosecution. *People v Harverson*, 291 Mich App 171, 175; 804 NW2d 757 (2010). The prosecution must introduce sufficient evidence for a rational trier of fact to find the essential elements of the crime were proven beyond a reasonable doubt. *Id.* “Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.” *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993). “Because it can be difficult to prove a defendant’s state of mind on issues such as knowledge and intent, minimal circumstantial evidence will suffice to establish the defendant’s state of mind, which can be inferred from all the evidence presented.” *People v Kanaan*, 278 Mich App 594, 622; 751 NW2d 57 (2008). This Court will not interfere with the trier of fact’s role of determining the weight of the evidence or the credibility of witnesses. *Id.* at 619.

To convict defendant of first-degree home invasion as an aider and abettor, the prosecution had to prove that (1) the home invasion took place; (2) defendant “performed acts or gave encouragement that assisted the commission” of the home invasion; and (3) “defendant intended the commission of the [home invasion] or had knowledge that [his codefendants] intended its commission at the time that the defendant gave aid and encouragement.” *People v Moore*, 470 Mich 56, 67-68; 679 NW2d 41 (2004).

Here, it is undisputed that a home invasion occurred. According to the evidence, including defendant's own statements to police, defendant was present when the robbery was planned, he knew why the victims' apartment was targeted, and he knew that a gun was going to be used to complete the crime. Defendant admitted that he drove his codefendants to the victims' apartment, waited outside while they went to commit the planned crime, and then drove his codefendants, as well as the stolen items, from the crime scene. Contrary to defendant's claim on appeal, this evidence was sufficient for a rational trier of fact to conclude beyond a reasonable doubt that defendant knew his codefendants intended to commit the home invasion at the time that he gave aid and encouragement, including by acting as the getaway driver. See *People v Norris*, 236 Mich App 411, 421-422; 600 NW2d 658 (1999).

Next, defendant argues that the jury instructions impermissibly allowed the jury to find him guilty of home invasion for merely being present at the scene of the crime. After review of this unpreserved claim for plain error, we disagree. See *People v Pipes*, 475 Mich 267, 277, 279; 715 NW2d 290 (2006).

This Court reviews jury instructions in their entirety to see if, as a whole, they fairly presented the issues to be tried and sufficiently protected the defendant's rights. *People v Aldrich*, 246 Mich App 101, 124; 631 NW2d 67 (2001). Here, the jury instructions accurately provided that, to be convicted of home invasion as an aider and abettor, the jury had to find that: (1) the home invasion occurred; (2) defendant assisted in the crime; and (3) defendant intended the commission of the crime or knew his codefendants' intent at the time he helped them. *People v Moore*, 470 Mich 56, 67-68; 679 NW2d 41 (2004).

Defendant challenges the following particular portion of the instruction: "the defendant must have intended the commission of the crime alleged or must have known that the other person intended its commission at the time of giving the assistance." He claims that this instruction allowed the jury to convict him for merely being present. However, the instruction clearly added that defendant must have intended the commission of the crime alleged or must have known that the other person intended its commission "at the time of giving the assistance," so it presupposes that assistance was given. Further, the jury instruction also specifically required that "before or during the crime the defendant did something to assist in the commission of the crime." As noted above, instructions are read in their entirety, and "[i]nstructions may not be extracted piecemeal to establish error." *People v Caulley*, 197 Mich App 177, 184; 494 NW2d 853 (1992). As a whole, the instructions required that defendant aid or assist his codefendants in committing the crime, so mere presence was insufficient to convict. Therefore, there was no plain error in the challenged instruction.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Henry William Saad  
/s/ Pat M. Donofrio