

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID JOHNSON,

Defendant-Appellant.

UNPUBLISHED
February 21, 2003

No. 238181
Wayne Circuit Court
LC No. 01-004136

Before: Kelly, P.J., and White and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction of arson of a dwelling house, MCL 750.72. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that the trial court abused its discretion in admitting bad acts evidence that he had abused his girlfriend. We find no reversible error. The evidence was admitted as relevant to explain why the witness, the girlfriend's son, disliked defendant, and not to suggest that defendant acted in conformity with his character in committing arson. *People v VanderVliet*, 444 Mich 52, 64; 508 NW2d 114 (1993). Where defendant received a bench trial, it is presumed that the judge confined himself to the proper use of the evidence. *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988). Further, given the direct evidence of defendant's guilt, any error in admitting the evidence was harmless beyond a reasonable doubt. *People v Ullah*, 216 Mich App 669, 676; 550 NW2d 568 (1996).

Defendant also challenges the sufficiency of the evidence that the fire was an arson. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). Here there was evidence that defendant had had a conflict with the landlord, that the fire was set with an accelerant, and that defendant was heard saying that he had poured alcohol on a seat and lit it. This was sufficient evidence to support a finding that defendant intentionally burned a dwelling house. *People v Wolford*, 189 Mich App 478, 480; 473 NW2d 767 (1991).

Affirmed.

/s/ Kirsten Frank Kelly

/s/ Helene N. White

/s/ Joel P. Hoekstra