

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee

UNPUBLISHED
September 20, 2012

v

KENNETH MARTIN JONES,
Defendant-Appellant.

No. 305607
Kent Circuit Court
LC No. 10-012606-FH

Before: M. J. KELLY, P.J., and HOEKSTRA and STEPHENS, JJ.

PER CURIAM.

Defendant Kenneth Martin Jones appeals by right his bench conviction of second-degree home invasion. MCL 750.110a(3). The trial court sentenced Jones as a third habitual offender, see MCL 769.11, to serve 24 to 360 months in prison. Because we conclude that there were no errors warranting relief, we affirm.

The victim testified that he arrived home from work at 5:00 a.m. and found Jones, a man he met only once before, standing in his apartment. Jones noted that someone had robbed him and later fled as the victim called the police. There was evidence that several items were missing from the victim's home, which Jones did not have as he fled. However, Jones' fingerprints were on several items that had been moved, but remained in the apartment.

Jones argues that the prosecution failed to introduce sufficient evidence from which a rational trier of fact could conclude beyond a reasonable doubt that he entered the apartment with the intent to commit larceny or actually did commit a larceny. See MCL 750.110a(3). "In challenges to the sufficiency of the evidence, this Court reviews the record evidence de novo in the light most favorable to the prosecution to 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 Roper*, 286 Mich App 77, 83; 777 NW2d 483 (2009). This Court must draw all reasonable inferences and examine credibility issues in support of the verdict. *People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010).

Here, testimony established that Jones was in the victim's apartment at 5:00 a.m. He was uninvited, and although he previously lived in the area, he had moved two weeks earlier. The victim's door had been forced open, but Jones had closed it behind him when he entered, concealing himself within the apartment. Several items had already been removed from the apartment, but the number and type of items led to the reasonable inference that the perpetrator

made more than one trip to and from the apartment. Jones' fingerprints were also found on several items that had been moved but left behind. This evidence permits an inference that Jones had gone through the victim's things. And, although there was evidence that he had been in the apartment one time previously, there was evidence that he had not touched or moved the items on which his fingerprints were found. The necessary intent—the intent to permanently deprive the true owner of property—could be inferred from the fingerprint evidence; a reasonable finder of fact could infer that Jones picked up the victim's items within the apartment and moved those items and that he did so because he intended to permanently deprive the victim of those items, but was caught before he could remove them. Moreover, Jones fled when the victim left to call the police. Evidence of flight is probative of consciousness of guilt. *People v Coleman*, 210 Mich App 1, 4; 532 NW2d 885 (1995).

There was sufficient evidence to support Jones' conviction beyond a reasonable doubt.

Affirmed.

/s/ Michael J. Kelly

/s/ Joel P. Hoekstra

/s/ Cynthia Diane Stephens