

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL WAYNE RIGEL,

Defendant-Appellant.

UNPUBLISHED

December 18, 2007

No. 273235

Calhoun Circuit Court

LC No. 2006-001566-FH

Before: Murray, P.J., and Hoekstra and Wilder, JJ.

PER CURIAM.

Defendant was convicted by a jury of two counts of resisting arrest, MCL 750.81d(1). He was sentenced to nine months in the county jail for each count. Defendant appeals his conviction and sentence for one count, related to his conduct toward Officer Timothy Gothard, as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues on appeal that there was insufficient evidence to convict him of resisting arrest because his version of the events surrounding his arrest was more credible than that of the three witnesses who testified for the prosecution. And, because he could not be convicted of resisting arrest based on his testimony, reversal is required. We disagree.

Credibility is relevant to the weight rather than the sufficiency of the evidence. *People v Sharbnow*, 174 Mich App 94, 105; 435 NW2d 772 (1989). “Determinations of credibility are made by the jury which heard the testimony and observed the witnesses.” *Id.* Once the jury has made a credibility determination and weighed the evidence, even where there is a conflict in the testimony, we will not disturb that determination on appeal. *People v Strong*, 143 Mich App 442, 453; 372 NW2d 335 (1985). We will not interfere with the trier of fact’s role of determining the weight of the evidence or the credibility of witnesses. *People v Williams*, 268 Mich App 416, 419; 707 NW2d 624 (2005). Moreover, in reviewing the sufficiency of the evidence, all evidentiary conflicts are resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Here, the prosecution presented the testimony of two officers, including Gothard, who defendant resisted. The testimony of Gothard, which apparently was believed and accepted by the jury, was sufficient to establish all the elements of the crime. MCL 750.81d(1) and (7)(a); *People v Ventura*, 262 Mich App 370, 374-375; 686 NW2d 748 (2004). Because this evidence

was sufficient, we are not empowered to overturn the verdict based upon the existence of conflicting testimony. *People v Lemmon*, 456 Mich 625, 643; 576 NW2d 129 (1998).

Affirmed.

/s/ Christopher M. Murray

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder