

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

RONALD DERRICK HEIGHTON, a/k/a
RONALD DARRICK HEIGHTON,

Defendant-Appellant.

UNPUBLISHED

July 26, 2002

No. 230529

Berrien Circuit Court

LC No. 96-197052-FC

Before: Neff, P.J., and White and Owens, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of one count of accessory after the fact, MCL 750.505 and MCL 750.110 (breaking and entering), and one count of receiving and concealing stolen property, MCL 750.535.¹ Defendant was sentenced as a fourth habitual offender, MCL 769.12, to concurrent terms of twenty-four to sixty months' imprisonment. He appeals as of right. We affirm.

Defendant challenges the sufficiency of the evidence supporting both of his convictions. A challenge to the sufficiency of the evidence requires us to determine "whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt." *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000). Circumstantial evidence, and reasonable inferences arising from it, may be sufficient to prove the elements of a crime. *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999).

In regard to defendant's accessory after the fact conviction, he contends that the evidence was insufficient to establish that he knew that Noah Dibble had stolen the bags of coins. "[A]n accessory after the fact is 'one who, with knowledge of the other's guilt, renders assistance to a felon in the effort to hinder his detection, arrest, trial or punishment.'" *People v Perry*, 460 Mich 55, 62; 594 NW2d 477 (1999), quoting *People v Lucas*, 402 Mich 302, 304; 262 NW2d 662 (1978). Thus, defendant's knowledge of Dibble's guilt was an essential element.

¹ Although not part of this appeal, the jury also found defendant guilty on one count of fleeing and eluding.

Here, Michelle Simmons testified that defendant knew that Dibble was going to commit the crime. Although Simmons' testimony was contradicted by that of defendant and Dibble on this point, whether defendant did, in fact, know that Dibble was going to commit the crime was a question for the jury to resolve because it concerned witness credibility. *People v McFall*, 224 Mich App 403, 412; 569 NW2d 828 (1997). Moreover, because a challenge to the sufficiency of the evidence requires us to view the evidence in a light most favorable to the prosecutor, we must assume that Simmons' testimony was truthful. *Nowack, supra* at 399. Accepting her testimony that defendant knew that Dibble was going to commit the crime, circumstantial evidence was presented indicating that defendant also knew that Dibble had stolen the bags of coins. If so, the testimony indicating that defendant drove Dibble from Tom's was sufficient to support his accessory after the fact conviction.

Defendant also challenges the sufficiency of the evidence supporting his conviction of receiving and concealing stolen property, MCL 770.535. In *People v Gow*, 203 Mich App 94, 96; 512 NW2d 34 (1993), we opined:

The elements of receiving and concealing stolen property with a value exceeding \$100 are that (1) the property was stolen, (2) the property has a fair market value of over \$100, (3) the defendant bought, received, possessed, or concealed the property with knowledge that the property was stolen, and (4) the property was identified as being previously stolen.

It should be noted that MCL 770.535(1) provides that a person may not "aid in the concealment of stolen . . . property"

Again, accepting Simmons' testimony as true, defendant, at the very least, knowingly allowed Dibble to place the stolen bags of coins in his Jeep. Dibble testified that he placed the bags of coins underneath the passenger seat in defendant's Jeep. Alternatively, an investigating officer testified that he found one of the bags of coins in the Jeep between defendant's seat and the door. Viewing the evidence in a light most favorable to the prosecution, the evidence was sufficient for the jury to conclude that defendant either possessed or concealed, or aided Dibble in concealing the stolen bags of coins. *Nowack, supra* at 399. Consequently, defendant's challenge to the sufficiency of the evidence supporting his receiving and concealing conviction is without merit.

Affirmed.

/s/ Janet T. Neff
/s/ Helene N. White
/s/ Donald S. Owens