

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JACK F. GHANNAM,

Defendant-Appellant.

UNPUBLISHED

July 27, 2001

No. 225764

Wayne Circuit Court

LC No. 99-005189

Before: Wilder, P.J., and Hood and Griffin, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of intentionally aiming a firearm without malice, MCL 750.233, and malicious destruction of property over \$200 but less than \$1,000, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant testified that she was patronizing a car wash when defendant told her to move her car because it was blocking a driveway. She denied that defendant told her that he owned the business. Complainant stated that when she declined to move her car, a sedan, defendant used his Ford Explorer to ram her car and to push it into two poles. The car sustained front and rear damage. The least expensive repair estimate was \$850. Complainant acknowledged that she threw a small chunk of concrete at defendant's vehicle in retaliation, and maintained that after she did so, defendant followed her and pointed a handgun at her. She estimated that defendant was fifteen to twenty feet away when he did so.

Other prosecution witnesses corroborated portions of complainant's testimony. Officer Fitzgerald observed damage to the front and rear of complainant's car. She stated that complainant reported that defendant pointed a gun in her face. Yvonne Blackmond testified that she saw defendant point a gun at complainant. She acknowledged that her written statement made no reference to a gun. Javier Lee testified that he saw defendant point a gun at complainant.

Defendant testified that when complainant declined to move her car, he used his truck to push the car out of the driveway. He maintained that his action did not damage the car.

Defendant stated that his gun, for which he had a permit, fell out of its holster, and that he held it briefly before reholstering it. He denied pointing the gun at complainant.

The trial court acquitted defendant of felonious assault, MCL 750.82, and possession of a firearm during the commission of a felony, MCL 750.227b, but convicted him of the misdemeanor offenses of intentionally aiming a firearm without malice, and malicious destruction of property over \$200 but less than \$1,000. The court accepted as credible the testimony given by complainant and others that defendant pointed his gun at complainant. In addition, the court found that defendant specifically intended to damage complainant's property. The court observed that defendant knew that the probable effect of his action would be to damage complainant's car when he pushed it into the poles.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), aff'd by equal division 462 Mich 71; 611 NW2d 783 (2000).

Defendant argues that the evidence was insufficient to support his conviction of intentionally aiming a firearm without malice. We disagree and affirm the conviction. Defendant's argument is grounded in his assertion that complainant and the other prosecution witnesses were not credible. The trial court, as finder of fact, was entitled to judge the credibility of the witnesses, and to decide which testimony to accept. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). We give special regard to the trial court's opportunity to view the witnesses and to judge their credibility. *People v Cyr*, 113 Mich App 213, 222; 317 NW2d 857 (1982). Complainant's testimony that defendant pointed a gun at her was consistent with her statement to Fitzgerald. Similarly, the trial court was entitled to accept the testimony of Blackmond and Lee that defendant pointed a gun at complainant, notwithstanding Blackmond's omission of a reference to a gun in her statement and Lee's contradiction of Fitzgerald on another point. We defer to the trial court's resolution of factual issues, especially those involving the credibility of witnesses. *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997). The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction of intentionally aiming a firearm without malice. *Petrella, supra*.

A person who willfully and maliciously destroys the property of another is guilty of a misdemeanor if the damage is \$200 or more but less than \$1,000. MCL 750.377a(1)(c)(i). To be convicted of malicious destruction of property, a defendant must have intended to destroy or

damage the property in question. Intent may be inferred from all the facts and circumstances. *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999).

Defendant argues that the evidence was insufficient to support his conviction of malicious destruction of property. We disagree and affirm the conviction. Complainant's testimony, which the trial court was entitled to accept, *Marji, supra*, established that defendant used his truck to hit complainant's car repeatedly and to push it into two poles. This evidence supported an inference that defendant specifically intended to damage complainant's property. *Nelson, supra*. Defendant's assertion that the trial court convicted him based on a negligence standard of proof is without merit. The court did observe that if a person used a vehicle to move and push another vehicle in the manner described by complainant, it would be reasonably probable that damage would be done to the moved vehicle. The court was not applying a negligence standard, but rather was stating reasonable inferences that could be drawn from the evidence. *Vaughn, supra*. Finally, complainant's testimony regarding the repair estimates established the damage element. *People v Hamblin*, 224 Mich App 87, 96; 568 NW2d 339 (1997). The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction of malicious destruction of property. *Petrella, supra*.

Affirmed.

/s/ Kurtis T. Wilder

/s/ Harold Hood

/s/ Richard Allen Griffin