STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED April 15, 2003
v	No. 237896 Kent Circuit Court
TORRENCE JERMAINE BROWN, Defendant-Appellant.	LC No. 00-001103-FH

Before: Jansen, P.J., and Kelly and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for resisting and obstructing a police officer, MCL 750.479, and his resulting enhanced sentence of one and one-half to four years' imprisonment, reflecting his status as an habitual offender, MCL 769.11. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In a challenge to the sufficiency of the evidence, we review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude beyond a reasonable doubt that the elements of the crime were proved beyond a reasonable doubt. *People v Sartor*, 235 Mich App 614, 618; 599 NW2d 532 (1999).

In *People v Vasquez*, 465 Mich 83; 631 NW2d 711 (2001), our Supreme Court held that the resisting and obstructing statute, MCL 750.479, "proscribes threatened, either expressly or impliedly, physical interference and actual physical interference with a police officer." *Vasquez, supra*,465 Mich 85-86, 90 (Markman, J.), 115 (Kelly, J.) The Court explained that "both physical interference that poses a threat to the safety of the police officers ('assault, beat, or wound') *and* physical interference that does not necessarily, but nevertheless may, pose a threat to the safety of police officers ('obstruct, resist, [or] oppose') are proscribed." *Id.* at 94 (Markman, J.) (emphasis in original). However, the Court continued that it was not necessary for a defendant to physically interfere with law enforcement officers at all. *Id.* at 97-98. In doing so, the Court approved of an earlier case, *People v Philabaun*, 461 Mich 255, 263; 602 NW2d 371 (1999), in which the Court stated:

> Actual interference is not necessary because case law instructs that an expressed threat of physical interference, absent physical interference, is sufficient to support a charge under the statute. And while an expressed threat of physical interference with an officer is sufficient to support a charge under the statute, such

> a threat is not necessary because this Court has held that a constant barrage of obscene and abusive remarks to an officer, taken together with the refusal to comply with the officer's orders, is sufficient to warrant a charge under the statute.

Here, defendant both failed to comply with the officers' direct orders to stand by the wall and fled the scene of the traffic stop. Flight remains sufficiently active physical resistance to an officer's performance of his duty to support defendant's conviction. Moreover, by fleeing, defendant triggered a foot pursuit that, had it been successful, would have resulted in officers having to physically confront and restrain defendant. Under such circumstances, the evidence was sufficient to support defendant's conviction.

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood