STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 19, 2012
v	No. 304468 Oakland Circuit Court
TERRY LAMONT ADAMS, Defendant-Appellant.	LC No. 2011-235484-FC

Before: GLEICHER, P.J., and M. J. KELLY and BOONSTRA, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of carjacking, MCL 750.529a, for which he was sentenced as an habitual offender, fourth offense, MCL 769.13, to a prison term of 18 to 30 years. He appeals as of right. We affirm.

Defendant's conviction arises from an incident in which he took a 2002 Cadillac for a test drive, accompanied by the victim, and then eventually stole the vehicle. At trial, defendant did not contest that he stole the car. The principal issue at trial concerned what offense was committed—carjacking or, alternatively, larceny from a person, MCL 750.357. Larceny from a person is distinguished from other crimes by "the lack of force or violence." See *People v Perkins*, 262 Mich App 267, 272; 686 NW2d 237 (2004). Carjacking, however, requires that "in the course of committing a larceny of a motor vehicle," the defendant "use force or violence, or the threat of force or violence," or put a person "in fear." MCL. 750.529a. It was left to the jury to determine which, if either, crime was committed in this case. The jury convicted defendant of carjacking.

I. SUFFICIENCY OF THE EVIDENCE

Defendant was convicted of violating MCL 750.529a, which provides:

> (1) A person who in the course of committing a larceny of a motor vehicle uses force or violence or the threat of force or violence, or who puts in fear any operator, passenger, or person in lawful possession of the motor vehicle, or any person lawfully attempting to recover the motor vehicle, is guilty of carjacking, a felony punishable by imprisonment for life or for any term of years.

> (2) As used in this section, "in the course of committing a larceny of a motor vehicle" includes acts that occur in an attempt to commit the larceny, or during commission of the larceny, or in flight or attempted flight after the commission of the larceny, or in an attempt to retain possession of the motor vehicle.

On appeal, defendant argues that the evidence did not support his carjacking conviction because there was insufficient evidence that he "put[] in fear any operator, passenger, or person in lawful possession of the motor vehicle" during the commission of the larceny. This Court reviews a challenge to the sufficiency of the evidence de novo by viewing the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Harverson*, 291 Mich App 171, 175; 804 NW2d 757 (2010).

At trial, the victim testified that he became "fearful" during the offense because he eventually realized that defendant intended to steal the vehicle and he was afraid that he would be "beaten up" or taken away in defendant's effort to steal the car. This evidence, viewed in the light most favorable to the prosecution, is sufficient to enable a reasonable jury to infer that the victim was placed in fear during the commission of the larceny of the vehicle. Furthermore, a jury could reasonably infer that the victim was placed in fear when he was nearly struck by the car mirror as defendant sped away after expelling the victim from the vehicle. Defendant thus inspired fear in the victim while in the course of committing a larceny of a motor vehicle. MCL 750.529a(2). Defendant's reliance on an excerpt of the victim's preliminary examination testimony, to argue that the victim was not in fear, is misplaced, because that testimony relates to an earlier portion of the test drive, before the victim realized that defendant intended to steal the vehicle. Viewed in a light most favorable to the prosecution, the evidence was sufficient to enable the jury to find beyond a reasonable doubt that the victim was placed in fear during the commission of the larceny of the vehicle.

II. OFFENSE VARIABLE 19

Defendant next argues that the trial court erred in scoring 15 points for offense variable (OV) 19 of the sentencing guidelines. Questions involving the interpretation and application of the sentencing guidelines are reviewed de novo as questions of law. *People v Smith*, 488 Mich 193, 198; 793 NW2d 666 (2010). To the extent that a scoring challenge involves the trial court's findings of fact, this Court reviews the trial court's findings for clear error. *People v Osantowski*, 481 Mich 103, 111-112; 748 NW2d 799 (2008). "A scoring decision is not clearly erroneous if the record contains '*any* evidence in support of the decision.'" *People v Witherspoon*, 257 Mich App 329, 335, 670 NW2d 434 (2003), citing *People v Elliott*, 215 Mich App 259, 260, 544 NW2d 748 (1996) (emphasis in *Witherspoon*). See also, *People v Lockett*, 295 Mich App 165; ___ NW2d ___ (2012), lv pending, quoting *People v Hicks*, 259 Mich App 518, 522; 675 NW2d 599 (2003).

OV 19 is scored 15 points where "[t]he offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice or the rendering of emergency services." MCL 777.49(b). The trial court scored 15 points for OV 19 because, three days after

the offense, defendant was found driving the stolen Cadillac, ignored police commands to stop the vehicle, led the police on a high speed chase, crashed the vehicle, fled on foot, and then physically resisted the police when they tried to apprehend him. The fact that these events occurred three days after the offense did not preclude the trial court from considering them for purposes of scoring OV 19. "Because OV 19 specifically provides for 'consideration of conduct after completion of the sentencing offense,' conduct that occurred after an offense was completed may be considered when scoring the offense variable." *Smith*, 488 Mich at 202, quoting *People v McGraw*, 484 Mich 120, 133-134; 771 NW2d 655 (2009).

Further, OV 19 "encompasses more than just the actual judicial process." *People v Barbee*, 470 Mich 283, 288; 681 NW2d 348 (2004). "[T]he police are an integral component in the administration of justice, regardless of whether they are operating directly pursuant to a court order." *Smith*, 488 Mich at 202. Thus, "interfering with a police officer's attempt to investigate a crime constitutes interference with the administration of justice." *People v Passage*, 277 Mich App 175, 180; 743 NW2d 746 (2007). In this case, defendant was driving the vehicle that was the subject of the carjacking. It is reasonable to infer that defendant's actions in fleeing from state troopers both in the stolen vehicle and on foot, and physically struggling with police officers upon his capture, were motivated to prevent the police from discovering his involvement in that crime and involved the use of force against another person. The trial court correctly held that defendant used force against another person to interfere with the administration of justice, thereby justifying the 15-point score for OV 19.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Michael J. Kelly
/s/ Mark T. Boonstra