

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL MICHAEL LAVIOLETTE,

Defendant-Appellant.

UNPUBLISHED

May 17, 2007

No. 266378

Cheboygan Circuit Court

LC No. 05-003149-FH

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

MEMORANDUM.

Defendant appeals as of right from his conviction, following a jury trial, of larceny by conversion of property valued \$1,000 but less than \$20,000, MCL 750.362. This case involves the taking of a 2004 Grand Am from an automobile dealership. Defendant was sentenced as a fourth-offense habitual offender, MCL 769.12, to serve 4 to 10 years in prison. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant's sole argument on appeal is that insufficient evidence was adduced below to support a finding that he acted with the requisite specific intent. We disagree. In order to convict defendant of larceny by conversion, the prosecution must prove beyond a reasonable doubt that "at the time the property was . . . converted, . . . the defendant intended to defraud or cheat the owner permanently of that property." *People v Mason*, 247 Mich App 64, 72; 634 NW2d 382 (2001) (internal quotation marks omitted). The jury was instructed that "[p]ermanently deprive means to withhold property or cause it to be withheld from a person permanently or for such a period of time that the owner loses a significant part of its value." See CJI2d, 23.1, Use Note 2(a). The prosecution argued that permanent deprivation was established by the loss in value sustained by the dealership.

Evidence was presented that the purchase price of the car was \$12,966. After the car was recovered and repaired (at a cost of \$811), it sold at auction for \$10,100. The loss in value between the sale price and the auction was \$2,866, or roughly 22 percent of the original purchase price. Defendant asserts that this loss in value does not constitute a significant part of its value. He postulates that a loss in excess of 50 percent is necessary in order to be characterized as significant. Defendant does not any support for this assertion other than citations to dictionary definitions of the word "significant." One of these dictionaries defines "significant" as follows: "Important; of consequence." *Random House Webster's College Dictionary* (1997). We believe it is evident that a loss of nearly one-quarter of the value of property is "of consequence," and

thus significant. As such the evidence, if viewed in the light most favorable to the prosecution, is sufficient for a rational trier of fact to infer that defendant acted with the requisite specific intent. See *People v Perez-DeLeon*, 224 Mich App 43, 59; 568 NW2d 324 (1997).

Affirmed.

/s/ Patrick M. Meter
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood