STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED July 6, 2006
v	No. 261731 Wayne Circuit Court
DARRICO RONNEAL BAKER, Defendant-Appellant.	LC No. 04-010032-01

Before: Davis, P.J., and Sawyer and Schuette, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of attempted larceny from a person, MCL 750.357 (larceny) and MCL 750.92 (attempt), and assault and battery, MCL 750.81. The trial court imposed sentences of time served for the assault conviction, and eighteen to sixty months imprisonment for the attempted larceny conviction. Defendant appeals as of right, challenging his conviction of attempted larceny. We affirm. This appeal is being decided without oral argument in accordance with MCR 7.214(E).

I. FACTS

Complainant testified that she was leaving her place of employment and walking toward her car when defendant approached her, said "give it up," and grabbed her in the upper arms. Complainant recounted screaming, crying and struggling, and falsely telling defendant that the police were present. Complainant stated that in response to the latter, defendant paused, looked around, then resumed the struggle.

A coworker of complainant testified that upon learning that someone was attacking complainant, he went outside and saw defendant grabbing her from behind. When defendant became aware of the coworker's presence, he let go of the complainant and started walking away, ignoring entreaties to stop.

Although complainant testified that in the excitement she could not identify any possession that defendant tried to take from her, an eyewitness testified that defendant approached her and grabbed at her purse while she struggled to hold onto it.

Defendant alleges there was evidence that during the struggle between complainant and himself, part of complainant's key ring broke off and fell to the ground, and that he picked it up,

handed it back to her, and then walked away. Defendant was charged with assault with intent to commit unarmed robbery, MCL 750.88. The trial court found defendant guilty of the lesser offenses of attempted larceny from a person, MCL 750.357 (larceny) and MCL 750.92 (attempt), and assault and battery, MCL 750.81.

II. SUFFICIENCY OF EVIDENCE

A. Standard of Review

When reviewing the sufficiency of evidence in a criminal case, we view the evidence of record in the light most favorable to the prosecution to determine whether a rational trier of fact could find that each element of the crime was proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). A trial court's findings of fact in a bench trial are reviewed for clear error. MCR 2.613(C). A finding is clearly erroneous if, after a review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made. *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

B. Analysis

Conviction of larceny from a person requires proof of (1) the taking of someone else's property without consent, (2) movement of the property, (3) with the intent to steal or permanently deprive the owner of the property, and (4) the property was taken from the person or from the person's immediate area of control or immediate presence. *People v Perkins*, 262 Mich App 267, 271-272; 686 NW2d 237 (2004). Conviction of attempt requires proof of the actor's specific intent to commit the crime allegedly attempted. *People v Meyers*, 250 Mich App 637, 652; 649 NW2d 123 (2002). Defendant challenges his attempted larceny conviction on the ground that the evidence was not sufficient to prove that he intended to permanently deprive the victim of any property.

We disagree. An actor's intent may be inferred from all of the facts and circumstances, and because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient. *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998). In this case, the evidence that defendant accosted complainant, demanded "give it up," and struggled with her extensively, pulling at her purse strap over her resistance, well supports the intent element behind the trial court's conclusion that defendant was guilty of attempted larceny. Thus, the trial court did not clearly err in convicting defendant of attempted larceny.

III. ABANDONMENT

A. Standard of Review

Abandonment is an affirmative defense and the burden is on the defendant to establish by a preponderance of the evidence voluntary and complete abandonment of a criminal purpose. *People v Cross*, 187 Mich App 204, 206; 466 NW2d 368 (1991).

B. Analysis

Defendant alternatively challenges his attempted larceny conviction on the ground that the trial court should have concluded that he had abandoned any such crime ever attempted. Again, we disagree. Defendant emphasizes that there was evidence that during the struggle between complainant and himself, part of complainant's key ring broke off and fell to the ground, and that he picked it up, handed it back to her, and then walked away. However, the defense of abandonment is not available where the actor "fails to complete the attempted crime because of unanticipated difficulties, unexpected resistance, or circumstances which increase the probability of . . . apprehension." *Cross, supra* at 206 (citation omitted). In this case, the trial court could well have concluded that defendant abandoned his attempted larceny only when confronted with complainant's vigorous resistance, the appearance of the complainant's coworker, or the combination of both. We defer to the factfinder's superior ability to adjudge credibility and otherwise weigh the evidence. See *People v Ulman*, 244 Mich App 500, 511; 625 NW2d 429 (2001); *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990). Thus, the trial court did not clearly err.

Affirmed.

/s/ Alton T. Davis
/s/ David H. Sawyer
/s/ Bill Schuette