

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRI LASHANA DAVIS,

Defendant-Appellant.

UNPUBLISHED

August 9, 2007

No. 269567

Wayne Circuit Court

LC No. 05-011412-01

Before: Smolenski, P.J., and Fitzgerald and Kelly, JJ.

PER CURIAM.

Defendant appeals as of right her jury trial convictions of arson of a dwelling house, MCL 750.72, two counts of assault with intent to murder, MCL 750.83, and assault with intent to do great bodily harm less than murder, MCL 750.84. Defendant was sentenced to 4 to 20 years in prison for her arson of a dwelling house conviction, 54 months to 10 years in prison for each of her assault with intent to murder convictions, and 29 months to 10 years in prison for her assault with intent to do great bodily harm less than murder conviction. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that there was insufficient evidence to support her convictions. Specifically, she argues that there was insufficient evidence that she was the person who started the fire at the victims' apartment. We disagree.

Due process requires the evidence to show guilt beyond a reasonable doubt to sustain a conviction. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999). When reviewing sufficiency claims, this Court must view the evidence de novo in the light most favorable to the prosecution to determine if a reasonable jury could find that the evidence met the elements of each conviction beyond a reasonable doubt. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). In determining the sufficiency of the evidence, “[i]t is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences.” *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). Further, the prosecution does not need to negate every reasonable theory of innocence, but only its own theory beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The prosecution presented sufficient evidence to prove beyond a reasonable doubt that defendant started the fire at the victims' residence. Defendant's threatening phone calls before

the fire led defendant's ex-girlfriend, Shaletta Smith, to be "scared and watchful." These calls also led Smith's current girlfriend, Tori Willis, to watch out the back window of the apartment for several hours for her safety. Only an hour and a half before the fire, defendant left a threatening voice message on Smith's phone. In this message, defendant threatened to come to Smith's house and kill Smith and her family. Immediately preceding the fire at 6:30 a.m., Willis saw defendant standing outside the apartment holding a Molotov cocktail, heard a loud noise, and saw the apartment in flames. Additionally, the jury heard a recording of defendant's apology for the fire to Smith. Sergeant Geoffrey Rhodes of the Detroit Fire Department found the remnants of the Molotov cocktail on the floor in Smith's apartment and concluded, with Lieutenant Horace Gary of the Detroit Fire Department, that the Molotov cocktail started the fire. When this evidence is viewed in the light most favorable to the prosecution, a rational jury could find beyond a reasonable doubt that defendant started the fire that burned Smith's apartment. *Hardiman, supra* at 421.

Defendant also argues Willis's testimony lacked credibility because her trial testimony was inconsistent with her preliminary examination testimony. Specifically, at trial, Willis indicated she saw defendant "four or five times" before the arson incident, however, in her preliminary examination testimony, she testified she only had seen defendant one time before the fire when defendant drove by in the black Expedition. Further, at trial, Willis testified that she saw defendant with two men, however, in her preliminary examination testimony she said she only saw defendant with one man. Although there were inconsistencies in Willis' testimony, this Court will not interfere with the jury's role in assessing credibility. *People v Stiller*, 242 Mich App 38, 42; 617 NW2d 697 (2000). Hence, this argument is unavailing.

Affirmed.

/s/ Michael R. Smolenski
/s/ E. Thomas Fitzgerald
/s/ Kirsten Frank Kelly