

Jason Hatchett appeals his convictions of Class B felony attempted robbery, three counts of Class B felony criminal confinement, and Class C felony carrying a handgun without a license. We affirm.

FACTS AND PROCEDURAL HISTORY

On February 22, 2009, the manager of Famous Dave's restaurant in Indianapolis was closing the restaurant when a customer indicated an armed individual had entered. After observing an armed black male wearing a dark sweatshirt, gloves, and neoprene mask, the manager called 911 from his cell phone and fled the building with two other employees. From outside the building, the manager observed a second armed black male inside the building. The second man was wearing a light gray sweatshirt, skullcap, and mask and was running toward the back of the store. A gray sport utility vehicle was waiting behind the restaurant, and it drove away as the manager approached. The two masked men exited the restaurant from a back door and fled over a fence behind the building, firing shots at the manager as they left. After returning inside the restaurant, the manager found five of his employees inside the kitchen cooler, where they had been ordered at gunpoint.

Indianapolis police later found Jason Hatchett and Alonzo Harris in a vehicle matching the description of the suspect's vehicle. Two Famous Dave's employees indicated Hatchett and Harris looked similar to the armed individuals, but were wearing different clothing. After searching the area, officers found two pairs of pants and some gloves hidden in bushes at a hotel two blocks from the restaurant. Two masks and three guns were recovered at the hotel in a stairwell.

Hatchett voluntarily signed a waiver of rights before speaking to officers. He admitted being inside Famous Dave's on February 22, 2009, and told the officer, "We was [sic] just supposed to go in there, get the money and get out." (Tr. 405) Hatchett admitted he had a gun at the scene, but denied firing it. Hatchett indicated he had been wearing a black hooded sweatshirt but changed his clothing in a nearby Wal-Mart, and he placed his mask, gloves, and pants in the bushes at the hotel.

A couple of days later, officers again questioned Hatchett. During this conversation, Hatchett indicated Harris had contacted him to ask if he "wanted to make some quick money," (*id.* at 197-98), and Hatchett had agreed to work with Harris. Hatchett also claimed he entered Famous Dave's and ran to the back of the store to serve as a look-out before fleeing out the back door of the building.

Following a two-day bench trial, Hatchett was found guilty of Class B felony attempted robbery,¹ three counts of Class B felony criminal confinement,² and Class C felony carrying a handgun without a license.³

¹ Ind. Code §§ 35-42-5-1 and 35-41-5-1 indicate Class B felony attempted robbery is committed when a person knowingly or intentionally takes a substantial step toward taking "property from another person or from the presence of another person: (1) By using or threatening the use of force on any person; or (2) By putting any person in fear . . . while armed with a deadly weapon."

² Ind. Code § 35-42-3-3 states Class B felony criminal confinement is committed by "[a] person who knowingly or intentionally: (1) confines another person without the other person's consent; or (2) removes another person, by fraud, enticement, force, or threat of force, from one (1) place to another" while armed with a deadly weapon.

³ Carrying a handgun without a license is defined in Ind. Code § 35-47-2-1: "a person shall not carry a handgun . . . without a license . . . being in the person's possession."

DISCUSSION AND DECISION

The sole issue Hatchett raises is whether sufficient evidence supports his convictions. When considering the sufficiency of evidence, we will not re-weigh the evidence or re-evaluate the credibility of witnesses. *Mann v. State*, 895 N.E.2d 119, 121 (Ind. Ct. App. 2008). If the probative evidence and reasonable inferences drawn therefrom support findings of guilt, the convictions must be affirmed. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005).

Hatchett argues the evidence is insufficient to support his convictions because he reluctantly provided a statement to police, eyewitness testimony was not conclusive, and the DNA evidence was not strongly probative of guilt. Hatchett has not demonstrated any of these three forms of evidence was inadmissible, and all three support his convictions.

Hatchett spoke to police on two occasions, one of which was recorded. Police officers must cease questioning if a suspect explicitly invokes his right to counsel, *Edwards v. Arizona*, 451 U.S. 477, 482-86 (1981), but are not required to stop following ambiguous references to an attorney, *see Davis v. United States*, 512 U.S. 452, 459 (1994), or when a defendant remains silent, *Berghuis v. Thompkins*, 130 S.Ct. 2250, 2260 (2010).

The record does not suggest Hatchett's statements to police were coerced, and there is no evidence Hatchett asked for counsel. Rather, at the time of questioning, Hatchett indicated he did not want a lawyer and said, "Yes, let's just do it" when police inquired if they could ask him questions. (State's Ex. 62.) Thus the trial court properly considered Hatchett's statements at trial because Hatchett never explicitly invoked his right to counsel.

See Edwards, 451 U.S. at 482-86.

During those interviews, Hatchett revealed his participation in the crime: “We was [sic] just supposed to go in there, get the money and get out.” (Tr. at 405; Ex. 62.) Hatchett admitted he carried a revolver into Famous Dave’s and hid his clothing, mask, gloves, and weapon in the bushes and stairwell at a nearby hotel. Hatchett’s admissions were sufficient to support his convictions.

Hatchett’s convictions also are supported by eyewitness identification and testimony. One witness indicated Hatchett looked like one of the armed individuals who entered the building, but his clothing was different. The restaurant manager also noted a resemblance between the suspects and the armed individuals, but thought the men were wearing different clothing. This eyewitness testimony was sufficient to support Hatchett’s conviction when considered in conjunction with other evidence. *See Scott v. State*, 871 N.E.2d 341 (Ind. Ct. App. 2007) (holding identification evidence need not be unequivocal unless the identification is the only evidence).

Finally, DNA evidence supported Hatchett’s convictions. Hatchett’s partial DNA profile was found on a pair of gloves, black pants, and a facemask. Hatchett’s DNA definitively matched DNA found on the second facemask. Hatchett notes DNA from multiple contributors was found on the clothing and asserts he frequently left his clothing at Harris’ house. Therefore, he argues, the DNA matches are not probative of his guilt. This argument is an invitation to reweigh evidence, which is a task prohibited by our standard of review. *Mann*, 895 N.E.2d at 121.

Hatchett's admissions to police, the eyewitness identification and testimony, and the DNA evidence linking him to clothing worn during the commission of the crime support his convictions of attempted robbery, criminal confinement, and carrying a handgun without a license. Therefore, we affirm.

Affirmed.

ROBB, J., and VAIDIK, J., concur.