

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROMERO HARRIS,

Defendant-Appellant.

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UNPUBLISHED

July 18, 1997

No. 193446

Recorder's Court

LC No. 95-006173

Before: White, P.J., and Bandstra and Smolenski, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial convictions for armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to one and a half to ten years' imprisonment for the armed robbery conviction, and two years imprisonment for the felony-firearm conviction, the two sentences to run consecutively. We affirm.

Defendant argues that the prosecution failed to present sufficient evidence to support his convictions. We disagree. "When reviewing a claim of insufficient evidence following a bench trial, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *People v Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995), citing *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985).

To support a conviction for armed robbery the prosecution must prove the following: (1) an assault, (2) a felonious taking of property from the victim's person or presence, and (3) the defendant must be armed with a weapon described in the statute. *People v Johnson*, 206 Mich App 122, 123; 520 NW2d 672 (1994). In addition, "[a]rmed robbery is a specific intent crime for which the prosecutor must establish that the defendant intended to permanently deprive the owner of property." *People v King*, 210 Mich App 425, 428; 534 NW2d 534 (1995), citing *People v Fordham*, 132 Mich App 70, 75; 346 NW2d 899 (1984), rev'd on other grounds 419 Mich 874; 347 NW2d 702 (1984).<sup>1</sup> A criminal assault constitutes "either an attempt to commit a battery or an unlawful act which

places another in reasonable apprehension of receiving an immediate battery.’ ” *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995), quoting *People v Johnson*, 407 Mich 196; 284 NW2d 718 (1979). A dangerous weapon within the meaning of the statute includes “an article which is in fact a dangerous weapon - a gun, ..., etc. or some article harmless in itself, but used or fashioned in a manner to induce the reasonable belief that the article is a dangerous weapon.” *People v Parker*, 417 Mich 556, 565; 339 NW2d 455 (1983).

Viewing the evidence in the light most favorable to the prosecution, we conclude that the prosecution presented sufficient evidence to establish the elements of armed robbery. Complainant testified that he had been frightened when defendant, with whom had been experiencing strained relations, pulled an automatic handgun from down by his waist and pointed it at complainant as if to shoot. Complainant identified the weapon as a black automatic handgun. As to the felonious taking, defendant himself admitted taking complainant’s coat, and complainant denied offering the jacket to defendant and stated that he would not have parted with his coat if not for the handgun. In addition, Mack, defendant’s own witness, testified that defendant took complainant’s coat without complainant’s permission.

As to the specific intent of permanent deprivation, the prosecution presented sufficient evidence from which a rational trier of fact could reasonably conclude that defendant possessed the specific intent to permanently deprive complainant of his coat. It is well established that “[c]ircumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime.” *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993); See also *Hutner*, *supra* at 282; *People v Drayton*, 168 Mich App 174, 176; 423 NW2d 606 (1988). Moreover, this Court has held that a “[s]pecific intent may be inferred from circumstantial evidence.” *People v Denton*, 138 Mich App 568, 573; 360 NW2d 245 (1983), citing *People v Fields*, 64 Mich App 166, 173; 235 NW2d 95 (1975). Although defendant testified that he intended to keep the coat as a type of security until complainant repaid a debt and that complainant had agreed to these terms, the trier of fact was not obliged to accept this testimony, and could have found a larcenous intent from the entire circumstances, including complainant’s testimony and the fact that defendant ran away after the change of possession, which was inconsistent with defendant’s testimony that the coat was exchanged as security for the debt. The trial court could have reasonably inferred that defendant possessed the specific intent to permanently deprive complainant of his coat. Even if defendant’s actions are regarded as a prank, the commission of such a prank (i.e., pointing a dangerous weapon at someone and taking the person’s coat) does not necessarily negate the requisite specific intent to withhold the coat on a permanent basis, or for such a long time that the owner loses a significant part of its value, use, or benefit. See CJI2d 18.1. We hold that the evidence, when viewed in the light most favorable to the prosecution, was sufficient to convict defendant of armed robbery.

“The elements of felony-firearm are that the defendant possessed a firearm during the commission or attempt to commit a felony.” *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996), citing *People v Passeno*, 195 Mich App 91, 97; 489 NW2d 152 (1992). Viewing the

evidence in the light most favorable to the prosecution, we conclude that the prosecution

presented sufficient evidence to establish the elements of felony-firearm. Complainant testified that defendant pointed a black automatic handgun at him while committing the armed robbery.

Affirmed.

/s/ Helene N. White

/s/ Richard A. Bandstra

/s/ Michael R. Smolenski

<sup>1</sup> Permanent deprivation means that the defendant must have intended to

(a) withhold property or cause it to be withheld from a person permanently, or for such a long time that the person loses a significant part of its value, use, or benefit; or

(b) dispose of the property in such a way that it is unlikely that the owner will get it back; or

(c) keep the property with the intent to give it back only if the owner buys or leases it back, or pays a reward for it; or

(d) sell, give, promise, or transfer any interest in the property; or

(e) make the property subject to the claim of a person other than the owner. [CJI2d 18.1.]