

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LLOYD W. JOHNSON,

Defendant-Appellant.

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UNPUBLISHED

April 3, 1998

No. 196715

Recorder's Court

LC No. 95-012725

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTONIO D. HALL,

Defendant-Appellant.

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No. 196718

Recorder's Court

LC No. 95-012725

Before: Holbrook, Jr., P.J., and White and J.W. Fitzgerald\*, JJ.

PER CURIAM.

Following a bench trial, defendants Johnson and Hall were convicted of armed robbery, MCL 750.529; MSA 28.797, and sentenced to serve prison terms of ten to twenty years, and three to six years, respectively. This Court consolidated defendants' appeals as of right, and we now affirm.

Both defendants argue that insufficient evidence was presented to support their respective convictions. Viewing the evidence in a light most favorable to the prosecution, we conclude that a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Kozyra*, 219 Mich App 422, 428; 556 NW2d 512 (1996). The

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\* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

evidence showed that complainant planned to buy drugs from defendants, but, before he could ask for anything, they surrounded him and beat him. While defendant Johnson held onto complainant, defendant Hall went through complainant's pockets. After defendant Johnson grabbed \$80 out of complainant's hand, defendant Hall grabbed a piece of lumber and hit complainant on the head. From these facts, a rational trier of fact could reasonably infer that defendants were acting in concert with the specific intent to assault and permanently deprive complainant of his money. See *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995) (an aider and abettor's state of mind may be inferred from all the facts and circumstances).

Moreover, because robbery is a continuous offense that is not complete until the perpetrator reaches a place of temporary safety, *People v Newcomb*, 190 Mich App 424, 430-431; 476 NW2d 749 (1991); *People v Velasquez*, 189 Mich App 14, 17; 472 NW2d 289 (1991), we find no merit to defendant Johnson's argument that no continuity of intent existed between the assault and the taking. Defendants use of force to prevent complainant from recovering his money or from escaping is sufficient to supply the element of force or coercion essential to the offense of robbery. *Id.*

We also reject defendants' argument that the trial court clearly erred in finding the complainant to be credible, where complainant testified that he had smoked cocaine the day before the incident. This Court does not review credibility determinations anew; instead, we defer to the superior ability of the trier of fact to assess and weigh the credibility of witnesses who appear before it. MCR 2.613(C); *People v Hughes*, 217 Mich App 242, 248-249; 550 NW2d 871 (1996).

Next, both defendants argue that the trial court improperly scored their sentencing guidelines, resulting in disproportionate sentences. A challenge directed, not to the accuracy of the factual basis of the sentence, but rather to the judge's calculation of the sentencing variables, does not state a cognizable claim for relief. *People v Mitchell*, 454 Mich 145, 178; 560 NW2d 600 (1997). Thus, appellate review here is limited to whether the sentences imposed are proportionate. Given the serious nature of this offense, and the circumstances of each defendant, we find no abuse of discretion by the trial court in imposing sentence as to either defendant. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ John W. Fitzgerald