

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CALVIN COOLEY,

Defendant-Appellant.

UNPUBLISHED
October 30, 1998

No. 203314
Recorder's Court
LC No. 96-006578

Before: Young, Jr., P.J., and Wahls and Jansen, JJ.

MEMORANDUM.

Defendant appeals by right his bench trial conviction for unarmed robbery, MCL 750.530; MSA 28.798. We affirm.

Defendant asserts that the trial court erred in failing to suppress evidence of his on-the-scene identification by complainant. Shortly after the robbery, complainant called police, and gave the responding officer a description of her assailant. Within ten or fifteen minutes, the officer returned to the crime scene with defendant, whom complainant identified as the robber. Defendant asserted that this on-the-scene identification violated his right to counsel. We disagree.

In *People v Winters*, 225 Mich App 718; 571 NW2d 764 (1997), this Court resolved a long-standing conflict as to the applicable standard for reviewing on-the-scene identifications conducted in the absence of counsel. This Court held that a promptly conducted on-the-scene identification is a reasonable and indispensable police practice, and does not violate a suspect's right to counsel. *Id.*, p 728. Here, the police officer acted reasonably in returning to the crime scene with the suspect, particularly where the officer was uncertain as to whether he had the right person. The officer engaged in reasonable and necessary police practice, which did not violate defendant's rights. *Id.*

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Myron H. Wahls

/s/ Kathleen Jansen