

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROOSEVELT WALKER,

Defendant-Appellant.

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UNPUBLISHED

February 12, 1999

No. 194993

Washtenaw Circuit Court

LC No. 95-004509 FC

Before: Smolenski, P.J., and Saad and Gage, JJ.

PER CURIAM.

After a jury trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797. The trial court sentenced him as a second habitual offender, MCL 769.10; MSA 28.1082, to four to ten years' imprisonment. Defendant appeals as of right. We affirm.

Defendant first contends that the trial court erred in denying his motion to quash the information because there was insufficient identification evidence. We must determine whether the district court abused its discretion in concluding that there was probable cause to believe that defendant committed the charged offense. *People v Whipple*, 202 Mich App 428, 431; 509 NW2d 837 (1993). At the preliminary examination, the victim testified that a person who sounded like a man entered the store wearing black pants, a dark hooded sweatshirt with the hood up, and dark nylon stockings over his head. The robber presented a gun, obtained money from the cash register, then fled the store out a side door. A customer also identified an individual fleeing out the side door wearing the same clothing. The customer returned to his vehicle and pursued the robber, who fled on foot. The customer briefly lost sight of the robber, but subsequently observed a car speed away from the area in which the customer had last seen the robber, traveling in excess of the speed limit and without headlights. The customer gave a detailed description of the vehicle and the area in which he eventually lost pursuit. The police subsequently found a vehicle like that driven by the robber in the driveway of the home where defendant resided. An officer testified that the vehicle's hood was warm and that he could smell the engine and the burning of the vehicle's brakes, indicating that the vehicle had recently been driven at a high rate of speed. The police also located inside the home clothes and a revolver similar to those used by the robber. Although neither the victim nor the customer could specifically identify defendant as the robber,

substantial circumstantial evidence existed that defendant committed the offense. This circumstantial evidence and the reasonable inferences arising therefrom were sufficient to satisfy the probable cause bindover standard, and the district court did not abuse its discretion in denying defendant's motion to quash. *Whipple, supra* at 431-432.

Next, defendant argues that the trial court erred in denying his motion to suppress because the police lacked probable cause to enter his driveway and touch his vehicle. We review the trial court's denial of defendant's motion to suppress for clear error. *People v Shields*, 200 Mich App 554, 556; 504 NW2d 711 (1993).

In addressing defendant's argument, we must first determine whether a constitutionally defined search has occurred, that is, whether the defendant had a reasonable expectation of privacy in the area searched or in the materials seized. *People v Whalen*, 390 Mich 672, 677; 213 NW2d 116 (1973). Police entry onto a driveway does not constitute a search because it does not interfere with anyone's legitimate expectation of privacy. *People v Shankle*, 227 Mich App 690, 693-694; 577 NW2d 471 (1998). Nor could defendant have possessed any reasonable expectation of privacy in the hood of the vehicle that he had parked in the open driveway. The officers did not rummage through the vehicle's interior or underneath the hood. They merely placed their hands on the exterior of the vehicle's hood, which was exposed to the outside world. See *People v Catania*, 427 Mich 447, 462; 398 NW2d 343 (1986) (What a person knowingly exposes to the public even in his own home or office is not a subject of Fourth Amendment protection.). Because defendant had no expectation of privacy and thus no search occurred, we conclude that the trial court did not err in denying defendant's motion to suppress.

Lastly, defendant claims that insufficient evidence existed to support his conviction of armed robbery. In reviewing the sufficiency of the evidence presented at trial in a criminal case, we view the evidence in a light most favorable to the prosecution and determine whether a rational factfinder could conclude that the essential elements of the crime were proved beyond a reasonable doubt. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

The elements of armed robbery are (1) an assault, (2) a felonious taking of property from the victim's presence or person, (3) while the defendant is armed with a weapon described in the statute. *People v Turner*, 213 Mich App 558, 569; 540 NW2d 728 (1995). Although defendant highlights the lack of concrete physical evidence linking him to the robbery, we note that circumstantial evidence and reasonable inferences arising from the evidence may be sufficient to prove the elements of a crime. *People v Lugo*, 214 Mich App 699, 710; 542 NW2d 921 (1995). Defendant's trial produced circumstantial evidence similar to that presented at the preliminary examination. Viewing this evidence and the reasonable inferences arising from it in the light most favorable to the prosecution, we find that a rational factfinder could have concluded that the essential elements of the crime were proved beyond a reasonable doubt. *Terry, supra*.

Affirmed.

/s/ Michael R. Smolenski

/s/ Henry William Saad

/s/ Hilda R. Gage