

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LASHON HUMPHREY,

Defendant-Appellant.

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UNPUBLISHED

March 17, 2000

No. 207549

Genesee Circuit Court

LC No. 96-054585 FC

Before: Murphy, P.J., and Hood and Fitzgerald, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of armed robbery, MCL 750.529; MSA 28.797, possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and carrying a concealed weapon (“CCW”), MCL 750.227; MSA 28.424.<sup>1</sup> Defendant was sentenced to five to fifteen years’ imprisonment for the armed robbery conviction, forty to sixty months’ imprisonment for the CCW conviction, and two years’ imprisonment for the felony-firearm conviction. Defendant appeals as of right, and we affirm.

Defendant first argues that the trial court erred in denying his motion for a directed verdict. We disagree. When reviewing a trial court’s decision regarding a motion for a directed verdict, we examine the evidence presented by the prosecutor at the time of the motion in the light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements of the crime were proved beyond a reasonable doubt. *People v Crawford*, 232 Mich App 608, 615-616; 591 NW2d 669 (1998). The elements of armed robbery are (1) an assault, and (2) a felonious taking of property from the victim’s person or presence, (3) while the defendant is armed with a dangerous weapon described by statute. *People v Norris*, 236 Mich App 411, 414; 600 NW2d 658 (1999). In the present case, defendant alleges that the victim’s identification of him as the perpetrator of the offense was insufficient because she merely relied on a “psyched feeling.” While the victim did, in fact, testify that she had a “psyched” feeling when identifying defendant as the perpetrator of the offense, the victim also testified that she observed defendant’s eyes and recognized his build. In fact, defendant was asked to roll up his sleeves to allow the victim the opportunity to determine whether his build comported with that of the perpetrator. The credibility of the victim’s identification testimony was a matter for the trier

of fact, and we will not resolve it anew. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). Furthermore, we note that circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of the crime. *Crawford, supra*. In the present case, defendant was arrested within six minutes of the time of the offense at a location within five minutes of walking distance of the restaurant where the armed robbery occurred. Defendant was carrying a gun which matched the description of the gun used to commit the crime. Defendant was also observed taking off clothing which matched the description of the clothing worn by the perpetrator of the offense. Accordingly, the trial court properly denied defendant's motion for a directed verdict where there was sufficient circumstantial evidence aside from the victim's identification to support defendant's conviction for armed robbery.<sup>2</sup> *Crawford, supra*.

Defendant next argues that he was denied due process of law when Officer Randolph Tolbert was allowed to identify defendant from a photograph. We disagree. Defendant did not object to the admission of this testimony, and therefore, appellate review is precluded. *People v Welch*, 226 Mich App 461, 464; 574 NW2d 682 (1997). However, we note that any objection was unnecessary, and trial counsel was not required to raise a meritless objection. *People v Torres (On Remand)*, 222 Mich App 411, 425; 564 NW2d 149 (1997). Defendant had changed his appearance between the time of the armed robbery and the time of trial when identification was a primary issue. Accordingly, the trial court properly allowed the testimony and subsequent admission of the photograph. *People v Dyson*, 106 Mich App 90, 99-100; 307 NW2d 739 (1981).

Affirmed.

/s/ William B. Murphy

/s/ Harold Hood

/s/ E. Thomas Fitzgerald

<sup>1</sup> On February 19, 1997, a jury rendered a verdict of guilty on the carrying a concealed weapon charge, but was unable to reach a verdict regarding the other two charged offenses. On August 7, 1997, following a second jury trial, defendant was convicted of armed robbery and felony-firearm.

<sup>2</sup> Defendant does not take issue with the elements of the felony-firearm conviction. Rather, defendant argues that there was insufficient evidence to support an armed robbery conviction which requires us to vacate his felony-firearm conviction. Because we find sufficient evidence to support the armed robbery conviction, we need not address defendant's felony-firearm argument.